Boston Athenæum.

From the Bequest of
George Adams.

CANCELLED

Received Oct. 24, 1904.

EXTRACT FROM THE THIRTEENTH OF THE RULES FOR THE LIBRARY AND READING ROOM OF THE BOSTON ATHENÆUM.

"If any book shall be lost or injured, or if any notes, comments, or other matters shall be written, or in any manner inserted therein, the person to whom it stands charged shall replace it by a new volume, or set, if it belongs to a set."

[15,000 Nov. '03]

UNIVERSITY
OF FLORIDA
LIBRARIES

Das Staatsarchiv.

69. Band.

Digitized by the Internet Archive
in 2010 with funding from
University of Florida, George A. Smathers Libraries

http://www.archive.org/details/staatsarchiv69inst

Das Staatsarchiv.

Sammlung

der offiziellen Aktenstücke

zur

Geschichte der Gegenwart.

Begründet

von

Aegidi und **Klauhold.**

Herausgegeben

von

Gustav Roloff.

Neunundsechzigster Band.

Leipzig,

Verlag von Duncker & Humblot.

1904.

327.08
S775
v.69

66684
Bernis F.
Oct. 24, 1904
E R
.7 St 2
(v.69)

Inhaltsverzeichnis.

Bündnisse, Verträge, Protokolle usw.

				Nr.	Seite
1891.	Okt.	10.	Peru und Brasilien. Handelsvertrag	13212.	336
1896.	März	27.	Costa Rica und Nikaragua. Grenzvertrag	13208.	323
1900.	Mai	28.	Spanien und Paraguay. Vertrag über literarisches und künstlerisches Eigentum	13209.	327
1902.	März	15.	Vertragsstaaten. Vertrag über literarisches und künstlerisches Eigentum	13210.	328
„	„	19.	Rufsland und Frankreich. Erklärung über ihre ostasiatische Politik	13066.	69
„	April	8.	Rufsland und China. Abkommen über die Mandschurei.	13069.	72
„	Aug.	28.	Japan, Deutschland, Grofsbritannien, Frankreich. Vertrag zur Einsetzung eines Schiedsgerichts über Besteuerung der Fremden in Japan	13204.	259
1903.	März	23.	Britisch-Südafrika. Handelsabkommen zwischen den verschiedenen britischen Besitzungen	13205.	264
„	Mai	7.	Deutsches Reich und Venezuela. Abkommen über die schiedsrichterliche Entscheidung gewisser Fragen wegen Bezahlung der deutschen Reklamationen . .	13203.	257
„	Juli	30.	Grofsbritannien. Abkommen zwischen der Regierung und der Cunardlinie über Bau und Wert von Hilfskreuzern	13206.	284
„	Septbr.	17.	Belgien und Vertragsstaaten. Beitritt Belgiens zu der Konvention zwischen südamerikanischen Staaten über künstlerisches und literarisches Eigentum vom 11. Januar 1889	13211.	332
„	Novbr.	18.	Vereinigte Staaten und Panama. Vertrag über den Bau eines Isthmuskanals zwischen dem Atlantischen und stillen Ozean	13207.	313

Handelsfragen zwischen Großbritannien einerseits und Deutschland und Belgien andererseits. 1897—1903.

				Nr.	Seite
1897.	Mai	9.	Grofsbritannien. Der Gesandte in Brüssel an den Minister des Ausw. Die belgische Regierung betrachtet den kanadischen Tarif als vertragswidrig	12997.	1

				Nr.	Seite
1897.	Mai	14.	Grofsbritannien. Der Botschafter in Berlin an den Minister des Ausw. Die deutsche Regierung protestiert gegen den kanadischen Tarif	12998.	1
„	„	14.	Deutsches Reich. Der Botschafter in London an den englischen Minister des Ausw. Fordert, daß Großbritannien die Verletzung des Handelsvertrags durch Kanada verhindert	12999.	3
„	Juni	4.	Grofsbritannien. Der Minister des Ausw. an den deutschen Botschafter. Er kann noch keine definitive Antwort geben	13000.	3
„	Juli	28.	— Der Minister der Ausw. an den Gesandten in Brüssel. Der Handelsvertrag zwischen Großbritannien und Belgien soll gekündigt werden	13001.	4
„	„	28.	— Derselbe an Denselben. Näheres über Dasselbe. Die Gleichstellung fremder Waren mit englischen in den Kolonien ist schädlich	13002.	4
„	„	28.	— Der Minister des Ausw. an den Botschafter in Berlin. Der deutsch-englische Handelsvertrag soll gekündigt werden	13003.	5
„	„	28.	— Derselbe an Denselben. Dasselbe wie Nr. 13002. .	13004.	6
„	„	29.	— Der Gesandte in Brüssel an den belgischen Minister des Ausw. Kündigt den Handelsvertrag	13007.	7
„	„	30.	— Der Botschafter in Berlin an den Minister des Ausw. Hat die Kündigung übermittelt	13005.	6
„	„	30.	Deutsches Reich. Das Ausw. Amt an den englischen Botschafter in Berlin. Bescheinigt den Empfang der Kündigung.	13006.	7
„	„	31.	— Das Ausw. Amt an den englischen Botschafter in Berlin. Neue Vertragsverhandlungen	13009.	8
„	Aug.	1.	Grofsbritannien. Der Gesandte in Brüssel an den Minister des Ausw. Unterredung mit dem belgischen Minister über die Kündigung	13008.	8
„	„	2.	Belgien. Der Minister des Ausw. an den englischen Gesandten in Brüssel. Neue Vertragsverhandlungen.	13010.	9
1898.	März	25.	Grofsbritannien. Der Botschafter in Berlin an den Minister des Ausw. Unterredung mit Bülow über die Bedingungen eines neuen Handelsvertrags. . .	13011.	9
„	April	1.	— Derselbe an Denselben. Hat der deutschen Regierung mitgeteilt, daß England die Wiederherstellung der alten Bedingungen ablehnt	13013.	11
„	„	4.	— Derselbe an Denselben. Dasselbe.	13012.	10
„	„	9.	— Der Minister des Ausw. an den Botschafter in Berlin. Nähere Darstellung der englischen Politik.	13014	11
„	Juni	3.	— Der Botschafter in Berlin an den Minister des Ausw. Unterredung mit Richthofen über die künftigen Handelsbeziehungen	13015.	12
„	„	14.	— Derselbe an Denselben. Teilt ihm mit, daß durch eine Bundesratsverordnung vom 11. Kanada von den Vorteilen der Meistbegünstigung ausgeschlossen ist. (Vgl. Schultheß Europ. Geschkal. 1898—1903) . .	13016.	14

				Nr.	Seite
1898.	Juni	22.	Deutsches Reich. Der Botschafter in London an den engl. Minister des Ausw. Begründet den Ausschluß Kanadas	13017.	14
„	Aug.	12.	Grofsbritannien. Der Minister des Ausw. an den Botschafter in Berlin. Bemerkungen über den Ausschluß Kanadas	13018.	15
„	„	19.	— Denkschrift des Generalkonsuls in Hamburg an den Botschafter in Berlin über die deutschen Zölle auf die Einfuhr aus den Kolonien	13019.	15
„	Sept.	16.	— Der Botschafter in Berlin an den Minister des Ausw. Unterredung über den Ausschluß Kanadas	13020.	19
1899.	Juni	24.	— Der Minister des Ausw. an die Botschaft in Berlin. Soll nähere Mitteilungen über die Behandlung Kanadas verlangen	13021.	19
„	„	28.	— Der Botschafter in Berlin an das deutsche Ausw. Amt. Warum wird Kanada von der Meistbegünstigung ausgeschlossen?	13022.	20
„	Aug.	5.	Deutsches Reich. Das Ausw. Amt an den englischen Botschafter. Antwort auf das vorige	13023.	21
1900.	Mai	18.	Grofsbritannien. Der Botschafter in Berlin an den Minister des Ausw. Hat Bülow an die Verlängerung des Handelsprovisoriums erinnert	13024.	22
„	Juni	23.	— Die Botschaft in Berlin an das deutsche Ausw. Amt.	13025.	23
1903.	März	18.	— Der Minister des Ausw. an den Botschafter in Berlin. Hat die deutsche Regierung Schritte zur Verlängerung des Handelsprovisoriums unternommen?	13026.	23
„	„	27.	— Der Botschafter in Berlin an den Minister des Ausw. Antwort auf das vorige	13027.	24
„	April	23.	— Der Botschafter in Berlin an den Minister des Ausw. Unterredung mit Richthofen über die Behandlung Kanadas	13028.	25
,	Juni	20.	— Der Minister des Ausw. an die Botschaft in Berlin. Rekapituliert die Verhandlungen über Kanada. Anschauungen der englischen Regierung	13029.	26
1903.	„	27.	Deutsches Reich. Der Staatssekretär des Ausw. Amts an den Botschafter in London. Antwort auf das vorige. Ansicht der deutschen Regierung	13030.	29
„	Juli	8.	Grofsbritannien. Der Minister des Ausw. an die Botschaft in Berlin. Verteidigt die kanadische Gesetzgebung. Vorschlag über die Form der Verhandlungen	13031.	34

Verhandlungen über die Besetzung der Mandschurei und Niutschwangs durch Rußland. 1901—1904.

				Nr.	Seite
1901.	Januar	3.	Grofsbritannien. Der Minister des Ausw. an den Botschafter in Petersburg und den Gesandten in Peking. Ist die Nachricht der „Times“ über eine russisch-chinesische Teilung der Mandschurei zutreffend?	13032.	37
„	„	4.	— Der Gesandte in Peking an den Minister des Ausw. Das Abkommen scheint authentisch zu sein	13034.	39

			Nr.	Seite
1901. Januar	5.	Grofsbritannien. Der Botschafter in Petersburg an den Minister des Ausw. Das Abkommen scheint nur lokale Eisenbahnfragen zu enthalten	13033.	38
„ „	12.	— Der Minister des Ausw. an den Gesandten in Tokio. Japan wünscht gemeinsam mit England Näheres über das Abkommen zu erfahren	13035.	39
„ „	15.	— Der Minister des Ausw. an den Gesandten in Peking. Der chinesische Gesandte leugnet die Existenz eines solchen Abkommens	13036.	40
„ Febr.	5.	— Der Minister des Ausw. an den Gesandten in Tokio. Der japanische Gesandte in London macht Mitteilungen über das russisch-chinesische Abkommen und wünscht Vorstellungen dagegen	13037.	40
„ „	7.	— Der Minister des Ausw. an die deutsche Botschaft in London. Dasselbe	13038.	41
„ „	12.	— Der Minister des Ausw. an den Botschafter in Berlin. Die deutsche Regierung wünscht keine Sonderverträge Chinas finanziellen oder territorialen Charakters	13039.	41
„ „	13.	— Der Minister des Ausw. an den Gesandten in Peking. Soll China vor dem Abkommen mit Rußland über die Mandschurei warnen	13040.	42
„ „	19.	Vereinigte Staaten. Der Staatssekretär des Ausw. an den chinesischen Gesandten in Washington. Warnung vor einem Sonderabkommen	13043.	44
„ „	27.	Grofsbritannien. Der Gesandte in Peking an den Minister des Ausw. Übersendet den Vertrag, dessen Unterzeichnung Rußland von China verlangt	13041.	42
„ „	28.	China. Kaiserliches Edikt über die russische Forderung und Anrufung der europäischen Vermittlung . . .	13042.	43
„ März	4.	Grofsbritannien. Der Minister des Ausw. an den Botschafter in Petersburg. Bemerkungen zu Nr. 12589.	13044.	44
„ „	5.	— Der Minister des Ausw. an den Botschafter in Berlin. Deutschland wünscht, daß China nur mit dem Konzert der Großmächte unterhandelt	13045.	45
„ „	5.	— Der Minister des Ausw. an den Gesandten in Peking. China soll nur mit dem Konzert unterhandeln . .	13046.	46
„ „	6.	— Der Gesandte in Peking an den Minister des Ausw. Übersendet den Text des russischen Vertragsentwurfs	13047.	47
„ „	9.	— Der Minister des Ausw. an den Botschafter in Petersburg. Soll nähere Auskunft von Lamsdorff über das vorige verlangen	13048.	48
„ „	19.	— Der Minister des Ausw. an den Gesandten in Tokio. Unterredung mit dem japanischen Gesandten über Nr. 13047	13049.	48
„ „	19.	— Der Gesandte in Peking an den Minister des Ausw. Änderungen an Nr. 13047	13050.	50
„ „	19.	— Derselbe an Denselben. Dasselbe	13051.	51
„ „	20.	— Der Minister des Ausw. an den Gesandten in Peking und den Botschafter in Berlin. Warnung an China vor Sonderverträgen	13052.	51

				Nr.	Seite
1901.	März	20.	China. Dekret der Regierung an den Gesandten in London. Soll England um Hilfe gegen Rußland bitten	13053.	52
„	„	26.	Grofsbritannien. Der Botschafter in Petersburg an den Minister des Ausw. Besprechung zwischen dem japanischen Gesandten und Graf Lamsdorff	13054.	52
„	„	28.	China. Die Kabinettsminister an den Gesandten in London. Ablehnung des Mandschureivertrags	13055.	53
„	April	5.	Grofsbritannien. Der Botschafter in Petersburg an den Minister des Ausw. Mitteilung des Journal „Officiel“ über die Verhandlungen mit China	13056.	53
„	Aug.	14.	— Der Botschafter in Petersburg an den Minister des Ausw. Rußland nimmt die Verhandlungen mit China wieder auf	13057.	54
„	„	16.	— Der Minister des Ausw. an den Botschafter in Petersburg. China soll den Mächten die russischen Forderungen mitteilen	13058.	54
„	„	21.	— Der Gesandte in Peking an den Minister des Ausw. Übersendet den russischen Entwurf über die Mandschurei und die mehrfachen Änderungen daran	13059.	55
„	Sept.	7.	— Der Gesandte in Peking an den Minister des Ausw. Geschichte der Besetzung Niutschwangs durch die Russen während der letzten 13 Monate auf Grund der Konsularberichte	13060.	61
„	Novbr.	5.	— Der Minister des Ausw. an den Gesandten in Peking. China soll die Initiative ergreifen, um wieder in Besitz der Zölle von Niutschwang zu kommen	13061.	67
„	„	27.	— Der Gesandte in Peking an den Minister des Ausw. China wird nicht die Initiative ergreifen bei Abwesenheit des Prinzen Ching	13062.	68
1902.	Januar	17.	— Der Minister des Ausw. an den Gesandten in Peking. Wie steht es mit der Auslieferung der Zölle in Niutschwang	13063.	68
„	„	20.	— Der Gesandte in Peking an den Minister des Ausw. Man darf China nicht drängen	13064.	69
„	„	20.	— Der Minister des Ausw. an den Gesandten in Peking. Die chinesische Regierung soll die Rückgabe der Zölle fordern	13065.	69
„	März	19.	Rufsland und Frankreich. Erklärung über ihre ostasiatische Politik	13066.	69
„	April	8.	Rufsland und China. Abkommen über die Mandschurei.	13069.	72
„	„	12.	Rufsland. Mitteilung des Regierungsboten über die Verhandlungen mit China	13067.	70
„	„	30.	Grofsbritannien. Der Minister des Ausw. an den Botschafter in Petersburg. Unterredung mit dem russischen Botschafter über den Mandschureivertrag.	13068.	71
„	Septbr.	9.	— Der Konsul in Niutschwang an den Gesandten in China. Stärke der Russen in der Mandschurei	13070.	75
„	Okt.	28.	China. Prinz Tsching an den englischen Gesandten in Peking. Die Russen beginnen mit der Räumung der Mandschurei	13071.	75

				Nr.	Seite
1903.	Febr.	14.	Grofsbritannien. Der Minister des Ausw. an den Gesandten in Peking. Sind die Russen noch in Niutschwang?	13072.	76
„	„	16.	— Der Gesandte in Peking an den Minister des Ausw. Die Russen sind noch in Niutschwang	13073.	76
„	April	9.	— Derselbe an Denselben. Dasselbe	13074.	77
„	„	14.	— Der Gesandte in Tokio an den Minister des Ausw. Die Russen haben Niutschwang geräumt	13075.	77
„	„	15.	— Der Botschafter in Petersburg an den Minister des Ausw. Grund für die Verzögerung der Räumung Niutschwangs	13076.	77
„	„	17.	— Der Gesandte in Peking an den Minister des Ausw. Verhalten der Russen in Niutschwang	13077.	78
„	„	17.	— Derselbe an Denselben. Die chinesische Regierung fürchtet neue Übergriffe Rußlands	13078.	78
„	„	23.	— Der Gesandte in Peking an den Minister des Ausw. Rußland stellt neue Bedingungen für die Räumung der Mandschurei	13079.	78
„	„	23.	— Derselbe an Denselben. Dasselbe	13080.	79
„	„	23.	— Der Minister des Ausw. an den Gesandten in Peking. Die Auslieferung Niutschwangs kann schlimme Folgen für China haben	13081.	79
„	„	23.	— Derselbe an Denselben. China soll sich neuen Forderungen widersetzen	13082.	79
„	„	24.	— Der Gesandte in Peking an den Minister des Ausw. Näheres über die russischen Forderungen. China will sie ablehnen	13083.	80
„	„	26.	— Der Botschafter in Washington an den Minister des Ausw. Die Vereinigten Staaten wollen Ablehnung der russischen Forderungen	13084.	80
„	„	27.	— Derselbe an Denselben. Dasselbe	13085.	81
„	„	27.	— Der Gesandte in Peking an den Minister des Ausw. Genauerer Text der russischen Bedingungen	13086.	81
„	„	27.	Japan. Der Gesandte in London an den englischen Minister des Ausw. Denkschrift über die russischen Forderungen an China	13089.	83
„	„	28.	Grofsbritannien. Der Minister des Ausw. an den Botschafter in Washington. England will mit den Vereinigten Staaten die offene Tür in China erhalten.	13087.	82
„	„	29.	— Der Botschafter in Petersburg an den Minister des Ausw. Graf Lamsdorff motiviert die Verzögerung der Räumung	13088.	83
„	„	30.	— Der Gesandte in Peking an den Minister des Ausw. China hat die russischen Forderungen abgelehnt. Rußland stellt neue Bedingungen	13090.	85
„	„	30.	— Der Minister des Ausw. an den Gesandten in Peking. Wünscht Nachrichten über die Zölle von Niutschwang	13091.	86
„	„	30.	— Der Gesandte in Tokio an den Minister des Ausw. Bericht über die Haltung der japanischen Presse.	13102.	91

				Nr.	Seite
1903.	Mai	1.	Grofsbritannien. Der Minister des Ausw. an den Botschafter in Petersburg. Erklärung des russischen Botschafters über die Räumung	13092.	86
„	„	2.	— Der Gesandte in Peking an den Minister des Ausw. Antwort auf Nr. 13091	13093.	86
„	„	2.	— Der Minister des Ausw. an den Gesandten in Peking. Welche Küstenzölle in Niutschwang bleiben frei von russischer Kontrolle?	13094.	87
„	„	3.	— Der Gesandte in Peking an den Minister des Ausw. Antwort auf das vorige	13095.	87
„	„	4.	— Der Minister des Ausw. an den Gesandten in Peking. Die Küstenzölle sollen nicht in die russisch-chinesische Bank gezahlt werden	13096.	87
„	„	5.	— Der Gesandte in Peking an den Minister des Ausw. Die Mandschurei wird den Fremden geöffnet . . .	13097.	88
„	„	8.	— Derselbe an Denselben. Weitere Verhandlungen zwischen Rußland und China über die Mandschurei	13098.	88
„	„	14.	— Der Botschafter in Petersburg an den Minister des Ausw. Unterredung mit Lamsdorff. Rußland wird seine Versprechungen erfüllen	13099.	88
„	„	19.	— Der Botschafter in Washington an den Minister des Ausw. Öffnung der mandschurischen Häfen . . .	13100.	90
„	„	23.	— Derselbe an Denselben. Dasselbe.	13101.	91
„	Juni	2.	— Der Botschafter in Washington an den Minister des Ausw. Verhandlungen zwischen den Vereinigten Staaten und Rußland über die Öffnung der Mandschurei .	13103.	91
„	„	6.	— Derselbe an Denselben. Dasselbe	13104.	92
„	„	6.	— Derselbe an Denselben. Dasselbe	13105.	92
„	„	12.	— Der Gesandte in Peking an den Minister des Ausw. Verhandlungen zwischen Rußland und China . . .	13106.	93
„	„	13.	— Der Minister des Ausw. an den Gesandten in Peking. China soll die Zahlung in die russisch-chinesische Bank ablehnen	13107.	93
„	„	13.	— Der Gesandte in Peking an Prinz Tsching. Öffnung der Vertragshäfen in der Mandschurei	13113.	97
„	„	17.	— Derselbe an Denselben. Wünscht nähere Nachrichten über die russisch-chinesischen Verhandlungen . .	13108.	93
„	„	20.	— Der Gesandte in Peking an den Minister des Ausw. Ein Abkommen zwischen Rußland und China ist bevorstehend	13109.	94
„	Juli	11.	— Der Minister des Ausw. an den Botschafter in Petersburg. Unterredung mit dem russischen Botschafter. Rußland wird sich der Öffnung der mandschurischen Häfen nicht widersetzen	13110.	94
„	„	15.	— Der Minister des Ausw. an den Botschafter in Petersburg. Unterredung mit dem russischen Botschafter. England wünscht nähere Kenntnis der russischen Forderungen	13111.	96
„	„	29.	— Der Minister des Ausw. an den Botschafter in Petersburg. Unterredung mit dem russischen Botschafter über die Mandschurei, Yangtsethal, Niutschwang. Rußland muß mehr Vertrauen bezeigen	13112.	96

				Nr.	Seite
1903.	Aug.	10.	Grofsbritannien. Der Gesandte in Peking an den Minister des Ausw. Die mandschurischen Häfen werden nach der Räumung geöffnet	13114.	98
„	„	13.	Rufsland. Ukas über Errichtung einer Statthalterschaft im fernen Osten	13115.	98
„	„	20.	Vereinigte Staaten. Der Botschafter in London an den englischen Minister des Ausw. China hat die Öffnung der mandschurischen Häfen versprochen . .	13116.	99
„	Septbr.	9.	Grofsbritannien. Der Gesandte in Peking an den Minister des Ausw. Rußland stellt neue Bedingungen. . .	13117.	99
„	„	10.	— Der Gesandte in Peking an den Minister des Ausw. Näheres über die russisch-chinesischen Verhandlungen. Rußland verschiebt die Räumung	13125.	105
„	„	11.	Japan. Der Gesandte in London an den englischen Minister des Ausw. Denkschrift über die russischen Forderungen	13118.	100
„	„	15.	Grofsbritannien. Der Gesandte in Tokio an den Minister des Ausw. Japan sieht in den neuen russischen Forderungen eine Verletzung der „Offenen Tür“ .	13119.	101
„	„	25.	— Der Gesandte in Peking an den Minister des Ausw. China hat die Räumung verlangt	13120.	101
„	„	27.	— Der Gesandte in Tokio an den Minister des Ausw. Japan wünscht die Ansicht Englands über die russischen Forderungen zu erfahren.	13121.	102
„	„	28.	— Der Gesandte in Peking an den Minister des Ausw. Rußland fordert einen russischen Generalinspektor der mandschurischen Zölle. Protest des englischen Gesandten bei China	13128.	108
„	„	30.	— Der Minister des Ausw. an den Gesandten in Tokio. Antwort auf das vorige.	13122.	102
„	Oktbr.	2.	— Der Gesandte in Peking an den Minister des Ausw. Verhandlungen über die Zollfrage	13123.	103
„	„	13.	Rufsland. Kaiserlicher Ukas über die Verwaltung des fernen Ostens	13124.	103
„	„	29.	Grofsbritannien. Der Gesandte in Peking an den Minister des Ausw. Rußland beschlagnahmt die mandschurischen Telegraphen	13126.	107
„	Nov.	12.	— Der Botschafter in Petersburg an den Minister des Ausw. Rußland hat Mukden wieder besetzt . . .	13127.	107
„	„	25.	— Der Minister des Ausw. an den Botschafter in Petersburg. England erkennt die russische Kontrolle der mandschurischen Eisenbahnen an, verlangt aber einen Termin für die Räumung	13129.	110
1904.	Januar	8.	Rufsland. Denkschrift des Botschafters in London an den englischen Minister des Ausw. Rußland widersetzt sich nicht der Ausübung der Rechte, die fremde Mächte in der Mandschurei erworben haben	13130.	111
„	„	8.	Grofsbritannien. Der Minister des Ausw. an den Botschafter in Petersburg. Bemerkungen zum vorigen	13131.	111

Zur Entstehung des russisch-japanischen Krieges von 1904.

Verhandlungen über Korea und die Mandschurei.

				Nr.	Seite
1903.	Juli	28.	Japan. Minister des Ausw. Baron Komura an den Gesandten in Petersburg Kurino. — Protest gegen die dauernde Besetzung der Mandschurei durch Rußland als bedrohlich für Korea und Japan. Soll die russische Regierung zu Verhandlungen auffordern	13151.	210
„	„	31.	— Kurino an Komura. — Unterredung mit Lamsdorff, der mit dem Zaren über den Vorschlag Japans beraten will	13152.	211
„	Aug.	3.	— Komura an Kurino. — Entwurf eines Vertrags; Garantie der Integrität Chinas und Koreas	13153.	212
„	„	5.	— Kurino an Komura. — Lamsdorff ist zu Verhandlungen bereit	13154.	214
„	„	6.	— Komura an Kurino. — Vollmacht für die Unterhandlungen	13155.	214
„	„	12.	— Kurino an Komura. — Hat Lamsdorff um Eile ersucht	13156.	214
„	„	24.	— Derselbe an Denselben. — Lamsdorff wünscht die Verhandlungen in Tokyo zu führen	13157.	214
„	„	26.	— Komura an Kurino. — Die Verhandlungen sollen in Petersburg geführt werden	13158.	215
„	„	27.	— Kurino an Komura. — Lamsdorff verläßt Rußland und will die Verhandlungen in Tokyo führen . .	13159.	215
„	„	29.	— Komura an Kurino. — Er nimmt an, daß Rußland die japanischen Prinzipien acceptiert hat	13160.	216
„	„	31.	— Kurino an Komura. — Lamsdorff will die japanischen Vorschläge erst prüfen lassen	13161.	217
„	Septbr.	2.	— Komura an Kurino. — Lamsdorff soll sich deutlicher aussprechen	13162.	218
„	„	5.	— Komura an Kurino. — Rußland arbeitet ein Gegenprojekt aus. Verlegung der Verhandlungen nach Tokyo empfehlenswert	13163.	218
„	„	9.	— Komura an Kurino. — Stimmt den Unterhandlungen in Tokyo zu	13164.	220
„	„	9.	— Kurino an Komura. — Vollmachten der russischen Unterhändler	13165.	220
„	„	24.	— Komura an Kurino. — Besprechung der russischen Unterhändler	13166.	220
„	Okt.	5.	— Komura an Kurino. — Vertragsentwurf Rußlands. Unabhängigkeit Koreas; Mandschurei liegt außerhalb der japanischen Interessensphäre	13167.	221
„	„	8.	— Komura an Kurino. — Beginn der Verhandlungen .	13168.	221
„	„	16.	— Derselbe an Denselben. — Japan schlägt Anerkennung der beiderseitigen Vorrechte in Korea und in der Mandschurei vor	13169.	222
„	„	22.	— Komura an Kurino. — Rußland lehnt die japanischen Vorschläge ab und will die mandschurische Frage mit China allein verhandeln	13170.	223

				Nr.	Seite
1903.	Okt.	29.	Japan. Komura an Kurino. — Weitere ergebnislose Verhandlungen	13171.	223
„	„	30.	— Derselbe an Denselben. — Neue Vorschläge Japans. Unabhängigkeit und Integrität Chinas und Koreas; Mandschurei außerhalb der japanischen, Korea außerhalb der russischen Interessensphäre	13172.	224
„	Nov.	1.	— Komura an Kurino. — Unterbrechung der Verhandlungen. Japan verlangt Schutz seiner vertragsmäßigen Rechte in der Mandschurei	13173.	225
„	„	3.	— Kurino an Komura. — Der Stellvertreter Lamsdorffs, Obolensky, sieht die ganze Schwierigkeit in der Eisenbahnfrage	13174.	226
„	„	13.	— Kurino an Komura. — Unterredung mit Lamsdorff. Die Rechte der fremden Mächte in der Mandschurei bilden die Schwierigkeit	13175.	226
„	„	21.	— Komura an Kurino. — Wünscht Beschleunigung der Verhandlungen	13176.	227
„	„	23.	— Kurino an Komura. — Die Krankheit der Zarin behindert die Verhandlungen. Die Schwäche der chineschen Regierung ist nach Lamsdorff die größte Schwierigkeit	13177.	228
„	„	27	— Kurino an Komura. — Krankheit der Zarin	13179.	229
„	„	28.	— Komura an Kurino. — Verlangt Beschleunigung der Verhandlungen	13178.	229
„	Dezbr.	1.	— Komura an Kurino. — Soll dringend Beschleunigung verlangen	13180.	229
„	„	2.	— Kurino an Komura. — Beratungen innerhalb der russischen Regierung	13181.	230
„	„	4.	— Derselbe an Denselben. — Lamsdorff verspricht Beschleunigung der Verhandlungen	13182.	230
„	„	9.	— Derselbe an Denselben. — Binnen wenigen Tagen soll ein neues russisches Projekt eingereicht werden	13183.	231
„	„	12.	— Komura an Kurino. — Russisches Grenzprojekt. Schweigt über Mandschurei	13184.	231
„	„	21.	— Komura an Kurino. — Übersendet eine Verbalnote an Lamsdorff mit Amendements zum vorigen	13185.	232
„	„	24.	— Kurino an Komura. — Lamsdorff will vor einer Antwort mit Alexieff beraten	13186.	233
1904.	Januar	1.	— Kurino an Komura. — Lamsdorff verheißt neue Instruktion an Rosen	13187.	234
„	„	7.	— Komura an Kurino. — Neue russische Vorschläge. Neutrale Zone, militärische Beschränkung Japans in Korea	13188.	234
„	„	13.	— Komura an Kurino. — Japan lehnt die russischen Vorschläge ab	13189.	235
„	„	23.	— Komura an Kurino. — Soll Lamsdorff um Antwort bitten	13190.	236
„	„	25.	— Kurino an Komura. — Zeitpunkt der Antwort ist unsicher	13191.	236
„	„	26.	— Komura an Kurino. — Ernste Aufforderung an Lamsdorff, die Verhandlungen zu beschleunigen	13192.	237
„	„	26.	— Kurino an Komura. — Lamsdorff beschwert sich über japanische Rüstungen	13193.	237

			Nr.	Seite
1904. Januar	28.	Japan. Komura an Kurino. — Leugnet die japanischen Rüstungen; Gerüchte über russische Rüstungen .	13194.	238
„ „	29.	— Kurino an Komura. — Lamsdorff leugnet die russischen Rüstungen. Verspricht keine schleunige Antwort	13195.	238
„ „	30.	— Komura an Kurino. — Soll einen Termin für die Antwort verlangen	13196.	239
„ Febr.	1.	— Kurino an Komura. — Der Antwortstermin hängt vom Zaren ab	13197.	239
„ „	5.	— Komura an Kurino. — Abbruch der Verhandlungen	13198.	240
„ „	5.	— Komura an Kurino. — Abbruch der diplomatischen Beziehungen mit Rußland.	13199.	241
„ „	5.	— Kurino an Komura. — Letzte Unterredung mit Lamsdorff	13200.	242
„ „	6.	— Kurino an Komura. — Hat den Abbruch der Beziehungen der russischen Regierung mitgeteilt . . .	13201.	242

Römische Kurie.

			Nr.	Seite
1904. Febr.	2.	Römische Kurie. Rundschreiben Pius X. über die unbefleckte Empfängnis	13202.	243

Zur Begründung der australischen Konföderation.

			Nr.	Seite
1899.		Australien. Entwurf der Kolonien für ihre künftige Bundesverfassung. Der britischen Regierung überreicht. 1899	13132.	113
„ Aug.—Okt.		Australische Kolonien. Adressen der Kolonien an die Königin über die Bundesverfassung	13133.	137
1900. März	3.	— Die Delegierten der Kolonien in London an den Kolonialminister. Denkschrift zur Begründung des Verfassungsentwurfs	13134.	144
„ „	29.	Grofsbritannien. Denkschrift des Kolonialamts über den Verfassungsentwurf. Kritik einzelner Bestimmungen, insbesondere von Kap. 74	13135.	156
„ „	30.	Neuseeland. Denkschrift der Regierung an den britischen Kolonialminister. Wünscht einige Änderungen am Verfassungsentwurf	13136.	166
„ „	30.	West-Australien. Denkschrift der Regierung an den Kolonialminister über den Verfassungsentwurf . .	13137.	168
„ April	5.	Grofsbritannien. Bericht über eine Beratung der australischen Delegierten mit dem Kolonialminister	13138.	170
„ „	5.	— Der Kolonialminister an die Gouverneure von Neu-Süd-Wales, Viktoria, Queensland, Südaustralien, Tasmania. Legt die Einwände gegen Kap. 74 dar. Die Delegierten sollen zur Änderung dieses Punktes ermächtigt werden	13139.	187
„ „	10.	— Der Kolonialminister an den Generalagenten für Neuseeland. Antwort auf Nr. 13136	13140.	189
„ „	22.	Victoria. — Der Gouverneur an den britischen Kolonialminister. Erwiderung der australischen Minister auf Chamberlains Vorstellungen in Nr. 13139 . .	13141.	189

				Nr.	Seite
1900.	—	—	Australien. — Die Delegierten, außer dem für Queensland, an den englischen Kolonialminister. Sie lehnen die verlangten Änderungen ab	13142.	191
„	April	27.	Queensland. — Der Gouverneur an den englischen Kolonialminister. Die Kolonie teilt Chamberlains Standpunkt	13143.	202
„	„	27.	Grofsbritannien. Der Kolonialminister an den Gouverneur von Westaustralien. Die koloniale Regierung soll ernstlich die Schwierigkeiten zu heben suchen	13144.	202
„	„	28.	— Das Kolonialamt an den Generalagenten für Neuseeland. Die australischen Minister haben den Wunsch Neuseelands abgelehnt	13145.	203
„	Mai	1.	Neuseeland. Der Generalagent an den englischen Kolonialminister. Antwort auf das vorige	13146.	205
„	„	4.	Grofsbritannien. Denkschrift zur Beantwortung von Nr. 13142	13147.	205
„	„	6.	West-Australien. Der Gouverneur an den englischen Kolonialminister. Stimmt der Änderung von Kap. 74 zu	13148.	206
„	„	7.	Grofsbritannien. Das Kolonialamt an den Generalagenten für Neuseeland. Die Differenzen zwischen Neuseeland und den australischen Kolonien kann die Regierung nicht beseitigen	13149.	206
„	Juli	9.	Australien. Bundesverfassung	13150.	208

Handelsfragen zwischen Grofsbritannien einerseits und Deutschland und Belgien andererseits. 1897—1903.*)

Nr. 12997. **GROSSBRITANNIEN.** — Der Gesandte in Brüssel an den Minister des Ausw. Die belgische Regierung betrachtet den kanadischen Tarif als vertragswidrig.

Brussels, May 9, 1897. (May 10.)

My Lord, || M. De Favereau spoke to me yesterday of the complaint which has been made by the Belgian Consul-General in Canada against the exclusion of Belgium from certain Tariff advantages which the Canadian Government wish to extend only to Great Britain. || His Excellency said that the action of the Canadian Government was in direct contradiction with the rights secured to Belgium by Article XV of the Treaty of Commerce and Navigation of the 23rd July, 1862. || I said that I had no authority to discuss the matter. The Belgian Minister in London was the proper channel for making the views of the Belgian Government known to Her Majesty's Government. || His Excellency said he was only waiting for the written Report of their Consul-General to send instructions to Baron Whettnall to lay the matter before your Lordship. As yet the Belgian Foreign Department bad only telegraphic information of what had happened.

F. R. Plunkett.

Nr. 12998. **GROSSBRITANNIEN.** — Der Botschafter in Berlin an den Minister des Ausw. Die deutsche Regierung protestiert gegen den kanadischen Tarif.

Berlin, May 14, 1897. (May 17.)

My Lord, || In the course of conversation this afternoon Baron von Marschall informed me that he had telegraphed to Count Hatzfeldt

*) Blaubuch Cd. 1630. Die eingeklammerten Daten geben das Datum des Empfangs. Red.

to make a representation to your Lordship on the subject of the resolutions recently submitted to the Canadian Legislature to grant preferential treatment to the products of the United Kingdom. His Excellency said that Article VII of the Treaty of Commerce, which he read to me, was so explicit that he did not understand how any question could arise as to the right of Germany to claim any preferential treatment which might be accorded to Great Britain. || Baron von Marschall said that his reason for mentioning this subject to me was that he was convinced that the desire for the maintenance of good relations between the two countries which your Lordship had instructed me to express on my return to Berlin included commercial as well as political relations, and he would be grateful to me if I would draw your Lordship's attention to the great importance which the German Government attached to the question. || I replied that I would, of course, comply with his Excellency's request and that as far as I understood the matter, the Canadian Government were anxious that the conditions of the Treaty, which had been applied to them without their consent, should be abrogated. In our more recent Commercial Treaties it had been usual to insert a clause that the self-governing Colonies should come under their operation only if they expressed the desire to do so. || Baron von Marschall said that the Treaty of 1865 had been concluded with Her Majesty's Government, and it was to them that Germany must look for its due execution, and, moreover, Her Majesty's Government had the right of overruling Canadian legislation. To this I replied that it could not be doubted that the Treaty would be scrupulously observed as long as it existed, but that it was in the power of either of the Contracting Parties to denounce it by giving a year's notice, and I understood from the newspapers that the Canadian Government were anxious that this should be done. || His Excellency observed that it was easier to denounce a Treaty than to conclude a new one, to which I fully agreed, more especially in the case of Great Britain, who, in consequence of the Free Trade system, had few concessions to offer. In conclusion, Baron von Marschall repeated that he had mereley mentioned the subject to me in order to impress upon me the importance which the German Government attributed to the action of the Canadian Legislature.

Frank C. Lascelles.

Nr. 12999. **DEUTSCHES REICH.** — Der Botschafter in London an den englischen Minister des Ausw. Fordert, daß Großbritannien die Verletzung des Handelsvertrags durch Kanada verhindert.

German Embassy, London, May 14, 1897. (May 17.)

(Translation.) || My Lord, || It has come to the knowledge of the Imperial Government that the Canadian Government have decided that from the 25th of last month German goods were to be treated differentially as against British goods on entering Canadian territory, a deduction of duty of one-eighth being granted in the case of British goods, while this advantage is denied to importers of German goods. || I have the honour to inform your Excellency, in accordance with instructions received, that, in the opinion of the Imperial Government, there can be no doubt that this measure is a contravention of the clear terms of Article VII of the Treaty between the Zollverein and Great Britain of the 30th May, 1865, by which we are expressly granted in the British Colonies a footing of equality for our products with those of the mother country. || Under these circumstances I have to request your Excellency, in the name of my Government, to be so good as to cause steps to be taken by Her Majesty's Government to put an end to the violation of the Treaty involved in the action of the Canadian Government. || Trusting that your Excellency will inform me of the decision taken by Her Majesty's Government in the matter, I have, &c. P. Hatzfeldt.

Nr. 13000. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den deutschen Botschafter. Er kann noch keine definitive Antwort geben.

Foreign Office, June 4, 1897.

Your Excellency,*) || In further reply to your Excellency's note of the 14th ultimo respecting the new Canadian Tariff arrangement, I have the honour to inform you that Her Majesty's Government are in communication with the Dominion Government on the subject, and pending the receipt of further information which has been called for, and is shortly expected, I am not in a position to give a definite answer to the complaint of the German Government. Salisbury.

*) Am 20. Mai hatte Salisbury dem Botschafter den Empfang von Nr. 12999 angezeigt. Red.

Nr. 13001. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Brüssel. Der Handelsvertrag zwischen Großbritannien und Belgien soll gekündigt werden.

Foreign Office, July 28, 1897.

Sir, || I have to request that you will at once give notice of the intention of Her Majesty's Government to terminate the Treaty of Commerce and Navigation between Great Britain and Belgium, signed on the 23rd July, 1862. || In virtue of the stipulations contained in Article XXV, the Treaty will accordingly terminate upon the expiration of a year, dating from the day upon which you give the notice.

Salisbury.

Nr. 13002. **GROSSBRITANNIEN.** — Derselbe an Denselben. Näheres über Dasselbe. Die Gleichstellung fremder Waren mit englischen in den Kolonien ist schädlich.

Foreign Office, July 28, 1897.

Sir, || With reference to my preceding despatch, I have to request you to address a note to the Belgian Government informing them, in the sense of the present despatch, of the reasons which have decided Her Majesty's Government to give notice of termination of the Treaty of Commerce and Navigation of the 22nd July, 1862. || The general stipulations of the Treaty in question, being based on the principle of most-favoured-nation treatment, are in accordance with the present views of Her Majesty's Government, but Article XV is in the following terms: — || „Article XV. Articles the produce or manufacture of Belgium shall not be subject in the British Colonies to other or higher duties than those which are or may be imposed upon similar articles of British origin." || A stipulation to such effect is entirely unusual in Commercial Treaties. No record exists in the archives of this Department of the circumstances under which this Article was adopted, or of the reasons which induced Her Majesty's Government at the time to enter into an engagement of such a nature, and it would appear probable that the insertion of these words must have been due to oversight or to a want of adequate consideration of the exact consequences which would flow from them. || The Belgian Government are aware that for many years past the British selfgoverning Colonies have enjoyed complete Tariff autonomy, and that in all recent Commercial Treaties concluded by Great Britain it has been

customary to insert an Article empowering the self-governing Colonies to adhere, or not, at will. No such Article is contained in the Anglo-Belgian Treaty of 1862, and the consequence is that certain of the British Colonies, which are all comprised within its operation, find themselves committed by Treaty to a commercial policy which is not in accordance with the views of the responsible Colonial Ministers, nor adequate to the requirements of the people. || Beyond this, the provisions of Article XV of the Treaty of 1862, quoted above, constitute a barrier against the internal fiscal arrangements of the British Empire, which is inconsistent with the close ties of commercial intercourse which subsist, and should be consolidated, between the mother country and the Colonies. || Under these circumstances, His Majesty's Government find themselves compelled to terminate a Treaty which is no longer compatible with the general interests of the British Empire. They are, however, anxious at once to commence negotiations for the conclusion of a new Treaty, from which the stipulations of Article XV shall be excluded, and which, whilst containing a clause providing for the facultative adhesion of the British self-governing Colonies, shall in other respects be similar to the Treaty now denounced. || Her Majesty's Government feel confident that the Belgian Government will share their wish for the speedy conclusion of a new and mutually satisfactory Treaty, in the negotiations of which Her Majesty's Government will be happy to consider any suggestions for improved stipulations which may be suggested by the experience gained during the thirty-five years' continuance of the Treaty of 1862.

Salisbury.

Nr. 13003. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Berlin. Der deutsch-englische Handelsvertrag soll gekündigt werden.

Foreign Office, July 28, 1897.

Sir, || I have to request that your Excellency will at once give notice of the intention of Her Majesty's Government to terminate the Treaty of Commerce between Great Britain and the Zollverein, signed on the 30th May, 1865. || In virtue of the stipulations contained in Article VIII, the Treaty will accordingly terminate upon the expiration of a year dating from the day upon which you give the notice.

Salisbury.

Nr. 13004. **GROSSBRITANNIEN.** — Derselbe an Denselben. Dasselbe wie Nr. 13002.

Foreign Office, July 28, 1897.

Sir, || With reference to my preceding despatch, I have to request you to address a note to the German Government informing them, in the sense of the present despatsch, of the reasons which have decided Her Majesty's Government to give notice of termination of the Treaty of Commerce of the 30th May, 1865. || The general stipulations of the Treaty in question, being based on the principle of most-favoured-nation treatment, are in accordance with the present views of Her Majesty's Government, but Article VII is in the following terms:— || „Article VII. The stipulations of the preceding Articles shall also be applied to the Colonies and foreign possessions of Her Britannic Majesty. || „In those Colonies and possessions the produce of the States of the Zollverein shall not be subject to any higher or other import duties than the produce of the United Kingdom of Great Britain and Ireland, or of any other country, or of the like kind; nor shall the exportation from those Colonies or possessions to the Zollverein be subject to any other or higher duties than the exportation to the United Kingdom of Great Britain and Ireland." (Hier folgt dieselbe Motivierung wie in Nr. 13002). Salisbury.

Nr. 13005. **GROSSBRITANNIEN.** — Der Botschafter in Berlin an den Minister des Ausw. Hat die Kündigung übermittelt.

Berlin, July 30, 1897. (August 2.)

My Lord, || With reference to my preceding*) despatch of this day's date, I have the honour to report that I called upon Baron von Rotenhan this morning to inform him that I had received your Lordship's instructions to notify at once the intention of Her Majesty's Government to terminate the Treaty of Commerce of 1865. I should, therefore, address a note to him in the course of the day to this effect, and at the same time I should have the honour of addressing a further note to him to inform him of the reasons which had induced Her Majesty's Government to take this step. || In reply to Baron von Rotenhan's inquiry as to when the Treaty should terminate, I said that it would only continue in operation for a year from the date on which the notice was given, that is from to-day.

*) Enthält die Mitteilung, daß er der deutschen Regierung die vorgeschriebene Note übersandt hat. Red.

His Excellency then said that he presumed it would continue in force till the 31st July, 1898, and that till then German goods which were now paying, under protest, higher duties in Canada than were imposed on English goods, would be admitted into Canada on the same footing as the latter. || I replied that I presumed that this would be the case, and I added that your Lordship had instructed me to express the hope that negotations might be shortly commenced for the conclusion of a new Treaty. Frank C. Lascelles.

Nr. 13006. **DEUTSCHES REICH.** — Das Ausw. Amt an den englischen Botschafter in Berlin. Bescheinigt den Empfang der Kündigung.

Berlin, July 30, 1897.

(Translation.) || The Undersigned has the honour to acknowledge the receipt of Sir Frank Cavendish Lascelles' note of to-day's date, by which the Treaty of Commerce between the German Zollverein and the United Kingdom of Great Britain and Ireland of the 30th May, 1865, is denounced. || As a consequence of this denunciation, the Treaty in question, and the supplementary Agreements relating to its extension to various German States which subsequently joined the German Zollverein, and to Alsace-Lorraine, will cease to be in force after the 30th July, 1898. || The Undersigned avails, &c. Rotenhan.

Nr. 13007. **GROSSBRITANNIEN.** — Der Gesandte in Brüssel an den belgischen Minister des Ausw. Kündigt den Handelsvertrag.

Brussels, July 29, 1897.

M. le Ministre. || In compliance with instructions received from Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to give hereby to your Exellency notice of the intention of Her Britannic Majesty's Government to terminate the Treaty of Commerce and Navigation between Great Britain and Belgium, which was signed on the 23rd July, 1862. In virtue of the stipulations contained in Article XXV, the Treaty will accordingly terminate upon the expiration of one year from to-day. || Requesting your Excellency will kindly acknowledge receipt of this communication, I avail &c.

F. R. Plunkett.

Nr. 13008. **GROSSBRITANNIEN.** — Der Gesandte in Brüssel an den Minister des Ausw. Unterredung mit dem belgischen Minister über die Kündigung.

Brussels, August 1, 1897. (August 2.)

(Extract.) || In view of their importance, I took, myself, to the Foreign Department on the 29th ultimo the two notes which I addressed to M. de Favereau in compliance with the instructions in your Lordship's despatches of the previous day, and handed them to his Excellency. || As M. de Favereau showed some surprise at such a grave decision being communicated to him thus abruptly, I said the Belgian Government must have known, by what had been said in the British Parliament and in the London newspapers, that no other course lay open to Her Majesty's Government, and surely the most honest and straightforward course was for Her Majesty's Government to denounce a Treaty containing an engagement which they had no legal power to enforce. || M. de Favereau inquired whether your Lordship had also denounced the Treaty with Germany. I said that I had no information on this point, but I considered it certain that the corresponding Treaty with Germany had also been denounced, for the reasons which necessitated the abandonment of the Treaty with Belgium applied equally to that with Germany. || I impressed upon his Excellency your Lordship's readiness to enter at once on negotiations for a new Treaty of Commerce. || I have since seen his Excellency twice, and on receipt your Lordship's telegram of the day before yesterday informed him that the Treaty 1865 with the Zollverein had also been denounced. || M. de Favereau told me last night that M. Lorand has given notice of a question in the Chambers on the denunciation of Anglo-Belgian Treaty, and that he would reply the day after to-morrow.

Nr. 13009. **DEUTSCHES REICH.** — Das Ausw. Amt an den englischen Botschafter in Berlin. Neue Vertragsverhandlungen.

Foreign Office, Berlin, July 31, 1897.

(Translation.) || The Undersigned has the honour to express his thanks to his Excellency Sir Frank Cavendish Lascelles, Her Britannic Majesty's Ambassador Extraordinary and Plenipotentiary, for his further note of yesterday, and to observe that he will submit the proposal made therein respecting the opening of negotiations for a new Treaty of Com-

merce between Germany and Great Britain to the Imperial Government for their consideration. || At the same time the Undersigned avails, &c.

Rotenhan.

Nr. 13010. **BELGIEN.** — Der Minister des Ausw. an den englischen Gesandten in Brüssel. Neue Vertragsverhandlungen.

Ministère des Affaires Étrangères, Bruxelles, le 2 Août, 1897.

M. le Ministre, || Votre Excellence, par sa lettre du 29 Juillet dernier, a dénoncé, au nom du Gouvernement de Sa Majesté Britannique, le Traité de Commerce et de Navigation conclu le 23 Juillet, 1862, entre la Belgique et la Grande-Bretagne. || J'ai l'honneur de lui donner acte de cette dénonciation. || En portant à ma connaissance les raisons qui engagent le Gouvernement Britannique à mettre fin à l'Acte International du 23 Juillet, 1862, votre Excellence a bien voulu me faire part du désir du Cabinet de Londres de voir s'ouvrir des négociations en vue de la signature d'un nouveau Traité. || Ce désir est aussi celui du Gouvernement du Roi, et celui-ci forme des vœux pour qu'un Traité conclu sur des bases avantageuses pour les deux parties puisse être mis en vigueur lorsque prendra fin l'acte qui régit depuis trente-cinq ans les relations commerciales entre la Belgique et la Grande-Bretagne, et sous l'empire duquel ces relations ont atteint un si heureux développement.

De Favereau.

Nr. 13011. **GROSSBRITANNIEN.** — Der Botschafter in Berlin an den Minister des Ausw. Unterredung mit Bülow über die Bedingungen eines neuen Handelsvertrags.

Berlin, March 25, 1898. (March 25.)

(Telegraphic.) I asked M. de Bülow to-day what the conditions were under which it is proposed that Great Britain and her Colonies should continue to receive most-favoured-nation treatment. || M. de Bülow read to me a Memorandum from the Minister of Finance, in which it was pointed out that there may be some danger in applying to the Reichstag for power to conclude a special arrangement with Great Britain, and he asks whether Her Majesty's Government would be disposed to temporary maintenance of the *status quo* in a form that would dispense the German Government from applying to the Legislature. || Her Majesty's

Government would only have to declare, for this purpose, that effect would not be given until some day later than the 30th July next (for instance, to 30th July, 1899) to the notice they gave to terminate the existing Treaty. || I told him I had little hope that Her Majesty's Government would be able to consent, but that I would at once telegraph to your Lordship.

Nr. 13012. **GROSSBRITANNIEN.** — Derselbe an Denselben. Dasselbe.

Berlin, March 31, 1898. (April 4.)

(Extract.) || In an interview which I had with M. de Bülow yesterday, I asked his Excellency whether he could now inform me of the conditions under which it was proposed to temporarily extend most-favoured-nation treatment to Great Britain and her Colonies, after the existing Commercial Treaty should have terminated. || M. de Bülow replied that it appeared to him that the simplest way of arranging the matter would be for Her Majesty's Government to agree to the suggestion made by Count Posadowsky, that Her Majesty's Government should declare that the notice they had given of the termination of the Treaty should not take effect until some date later than the 30th July, 1899. || M. de Bülow said this suggestion had been put forward purely for Parliamentary reasons. The Reichstag was about to adjourn for the Easter holidays, and there would be considerable difficulty in inducing the Members to return after Easter for the conclusion of absolutely necessary business. A provisional arrangement to continue most-favoured-nation treatment to Great Britain and her Colonies would give rise to discussion and might be rejected. If this should be the case it would be impossible to avoid the application of the Autonomous Tariff to English goods, which would cause great disturbance to trade. The present Treaty had existed for upwards of thirty years, and he hoped that, under the circumstances, Her Majesty's Government might consent to its continuance for one year more. His Excellency added that he had telegraphed to Count Hatzfeldt in this sense, but had not yet received a reply. || I said that I had not failed to report to your Lordship, both by telegram and despatch, the suggestion which he had made to me on the 25th instant, and I reminded him that I had expressed the opinion that Her Majesty's Government might find it very difficult to postpone the termination of the Treaty for another year. I would, however, not fail to report what he said to your Lordship.

Nr. 13013. **GROSSBRITANNIEN.** — Derselbe an Denselben. Hat der deutschen Regierung mitgeteilt, daß England die Wiederherstellung der alten Bedingungen ablehnt.

Berlin, April 1, 1898. (April 4)

My Lord, || On the receipt this afternoon of your Lordship's telegram of to-day, I called upon Baron von Richthofen to inform him that in no circumstances could Her Majesty's Government renew the engagements contained in Article VII of the Treaty of 1865 which grant to Germany the same treatment as the United Kingdom in regard to import and export duties in the Colonies. || Baron von Richthofen said that he regretted this decision of Her Majesty's Government, although he had been prepared for it by what I had said to him yesterday, as reported in my despatch of yesterday's date. || In reply to my inquiry whether his Exellency could now inform me on what conditions the German Government would be prepared to extend temporarily most favoured treatment to British goods after the 30th July next, Baron von Richthofen said that he did not think that these conditions had as yet been specified as it had been hoped that Her Majesty's Government would have consented to the prolongation of the existing Treaty. He seemed to think that the German Government would be able to obtain from the Reichstag the necessary power to enable the Federal Council to grant most-favoured-nation treatment. Frank C. Lascelles.

Nr. 13014. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Berlin. Nähere Darstellung der englischen Politik.

Foreign Office, April 9, 1898.

Sir, || I instructed your Excellency by telegram on the 1st instant to inform the German Government that Her Majesty's Government could not in any circumstances agree to the renewal of Article VII of the Treaty at present in force between the two countries. || The reasons which led Her Majesty's Government to denounce this Treaty were fully explained in my despatch of the 28th July, 1897, in which it was pointed out that the provisions of Article VII were not only entirely unusual in Commercial Treaties, but opposed to the complete Tariff autonomy which has for some years past been enjoyed by the self-governing Colonies, and inconsistent with the close ties of commercial intercourse between the mother-country and the Colonies which it is the most earnest desire of Her

Majesty's Government to secure and to consolidate. || In these circumstances, it is the fixed policy of Her Majesty's Government not to conclude in the future any Treaty engagements which would interfere in any way with such fiscal or Tariff arrangements as may be determined on between the different parts of the British Empire. || Your Excellency should explain to the German Government that it would be incompatible with this determination to renew even for a time the provisions of Article VII of the existing Treaty, which would limit and restrain the freedom of the Colonies in this respect. || In view, however, of the disadvantage of leaving the commercial arrangements of the two countries unregulated by any Agreement, Her Majesty's Government would be prepared to conclude a temporary arrangement applicable to the United Kingdom only, guaranteeing in all matters of tariff, commerce, and navigation the treatment accorded to the most favoured foreign nation, with a reservation as to bounties. To this arrangement the Colonies would be invited to adhere, but would be free to accept or decline up to the 30th July next. || The arrangement would be concluded for one year, unless a new Treaty should be negotiated before the expiration of that period. || Your Excellency should propose to the German Government the conclusion of an Agreement of this nature. || You are at liberty to inform them that Her Majesty's Minister at Brussels has been instructed to make a similar proposal to the Belgian Government.

Salisbury.

Nr. 13015. **GROSSBRITANNIEN.** — Der Botschafter in Berlin an den Minister des Ausw. Unterredung mit Richthofen über die künftigen Handelsbeziehungen.

Berlin, June 3, 1898. (June 6.)

My Lord, || I have the honour to report that I took an opportunity of speaking to Baron von Richthofen this morning on the subject of the proposal as to a provisional commercial arrangement.*) || Baron von Richthofen said that the German Government were not prepared to make any further proposals with regard to a provisional commercial arrangement. The German Government had proposed the prolongation of the existing Treaty for a year, but Her Majesty's Government had declined this

*) Am 11. Mai war ein Gesetz publiziert worden, wonach der Bundesrat bevollmächtigt wird, die Bestimmungen des gekündigten Handelsvertrags vorläufig bis zum 30. Juli 1899 auf die Einfuhr aus England von seinen Kolonien anzuwenden. Vgl. Schultheß Europ. Geschkal. 1898. Red.

proposal, and his Exellency did not see what further proposals the German Government could make. || I replied that, in that case, it would be very important if his Excellency could inform me whether the Federal Council would make use of the power which they had obtained from the Reichstag to extend most-favoured-nation treatment to British merchandize after the expiration of the Treaty on the 30th July. I explained that many complaints had been received at your Lordship's Office of the uncertainty which prevailed on this point, and which was causing considerable injury to trade. || Baron von Richthofen replied that he was unable to give me an official answer on this subject. Many similar complaints hat been received at the Ministry for Foreign Affairs from German merchants, but the Federal Council had not yet come to any decision on the subject, and it was, therefore, not possible to give an official answer. His personal opinion was that no change would be made with the United Kingdom or those parts of the British Empire in which the system, which had hitherto prevailed, continued, but that a difference would probably be made as regards those parts of the Empire which should affect any change in the system. As far as he knew Canada was the only Colony which intended to alter the system, and it was his opinion that it would be in regard to Canada alone that any change would be made by the German Customs authority. || I thanked Baron von Richthofen for the information he had given me, which, however, would not dispel the uncertainty of which both German and English merchants complained, and as the time was approaching when the Treaty would terminate, it appeared to me that the question might arise as to whether it would not be well to warn the mercantile classes that, although not probable, it was possible that some changes of Tariff might be made, so that they might take precautions in time. How would it be, I said, if the exporters in each country would be advised to leave to the importers in the other the care of settling the customs duties in their own countries and decline the responsibility of dealing with them themselves. || Baron von Richthofen said that he did not think the time had come for any official communication to the merchants. The Federal Council would probably, nay, almost certainly, consider the question at their next sitting, which would take place within a week, and would, no doubt, come to a decision in the sense he had indicated, and which he summed up in the sentence: „Traitement de fait, à titre de réciprocité."

Frank C. Lascelles.

Nr. 13016. **GROSSBRITANNIEN.** — Derselbe an Denselben. Teilt ihm mit, daß durch eine Bundesratsverordnung vom 11. Kanada von den Vorteilen der Meistbegünstigung ausgeschlossen ist. (Schultheß, Europ. Geschichtskal. 1898, 1903).

Berlin, June 14, 1898. (June 14.)

(Telegraphic.) || The following Notification, dated the 11th instant, was published last night in the „Reichsanzeiger“: — || „The Federal Council have decided, by virtue of the Law of the 11th May last relative to commercial relations with the British Empire, that on and after the 31st July next, and until further notice, all the advantages which are granted by the German Empire to the subjects and products of the most favoured nation shall be granted to the subjects and products of the United Kingdom of Great Britain and Ireland, as also to those of the British Colonies and possessions, with the exception of Canada.“

Nr. 13017. **DEUTSCHES REICH.** — Der Botschafter in London an den engl. Minister des Ausw. Begründet den Ausschluß Kanadas.

German Embassy, London, June 22, 1898. (June 24.)

(Translation.) || My Lord, || As your Excellency will see from the annexed copy of No. 27 of the German „Reichs Gesetzblatt“, p. 909, the Bundesrath determined, on the 11th instant, in accordance with the Law of the 11th May last relative to commercial relations with the British Empire, to continue to allow most favoured treatment to the nationals and to the products of Great Britain and British Colonies and foreign possessions, with the exception of Canada, from the 31st July until further notice. || In explanation of this resolution I venture to add, by direction of my Government, that they would gladly have granted most favoured treatment to Canada also, but in the meantime they are, to their regret, not in a position to do so, as, from information which has reached them, it must be considered as certain that in Canada, after the 30th July next, Germany will not be left in enjoyment of her present position, but will be treated differentially as regards the British mother-country. Should Canada, however, determine to continue, after the term in question, to accord Germany an equal position with Great Britain, the Imperial Government would not hesitate to have the decision of the Bundesrath subsequently extended to that Colony. P. Hatzfeldt.

Nr. 13018. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Berlin. Bemerkungen über den Ausschluß Kanadas.

Foreign Office, August 12, 1898.

(Extract.) || With reference to Viscount Gough's despatch of the 15th June last, I have received from the Colonial Office a letter from the High Commissioner for Canada, in which he expresses the regret of the Dominion Government at the decision of the German Government to discontinue most-favoured-nation treatment of imports from Canada on the expiry of the Zollverein Treaty of 1865, and requests that representations may be made to the German Government with a view to inducing them to reconsider their decision. || The Secretary of State for the Colonies observes that, if, as stated by Lord Strathcona, it is the case that Germany extends most-favoured-nation treatment to the Colonies of other countries which grant preferential treatment to the products of the Metropolitan country, it is not apparent on what grounds they refuse most-favoured-nation treatment to the products of the Dominion. || I request that you will ascertain and report the practice of the German Government in this respect, in order that I may be in a position to decide whether any useful object would be attained by making a representation to the German Government on the subject.

Nr. 13019. **GROSSBRITANNIEN.** — Denkschrift des Generalkonsuls in Hamburg an den Botschafter in Berlin über die deutschen Zölle auf die Einfuhr aus den Kolonien.

19. August 1898. (26. August.)

1. The official German publication, entitled „Allgemeiner und Vertrags Zoll-Tarif für das Deutsche Reich mit dem Zolltarifgesetz und Bestimmungen über die Tara“: Sonderabdruck aus dem Deutschen Handels-Archiv, herausgegeben vom Reichs Amt des Inneren Januarheft 1896 (Berlin 1896, Mittler und Sohn, Kgl. Hofbuchhandlung) states on p. 5, under the head of „II Allgemeiner und Vertrags Zoll-Tarif“: „Die Vertrags-mäßigen Begünstigungen finden zur Zeit auf die betreffenden Waaren Anwendung, wenn sie aus Aegypten . . . . . Frankreich einschließlich der Kolonien und auswärtigen Besitzungen sowie des Fürstenthums Monaco . . . . . Madagascar; . . . . . den Niederlanden einschließlich der Kolonien und auswärtigen Besitzungen . . . . . kommen, &c.“ || It is further mentioned in this official publication that the question, whether the most-favoured-

nation treatment shall be accorded to all goods imported from one of the countries enumerated, or only to products of the soil and industry of such countries, shall depend upon the special conditions laid down either by Treaty or otherwise in the case of each such country or territory. German Colonies and German Protectorates shall be considered as enjoying the most-favoured-nation treatment; but Protectorates of foreign (*i. e.*, non-German) countries shall be excluded from the advantages attaching to the most-favoured-nation treatment granted to such countries by Germany.

2. Though the Treaty of Frankfort only states that the most-favoured-nation treatment shall be accorded to „France" (without mentioning her Colonies and possessions), it is, nevertheless, indisputable that French Colonies and possessions have enjoyed, and still enjoy, most-favoured-nation treatment by Germany. One of the reasons why French „Colonies and possessions" were not specially mentioned in the Treaty of Frankfort was that the trade between them and Germany was (and is still) quite unimportant. During the past three years the German import trade from the French Colonies and possessions viâ Hamburg (which probably represents all but a very small portion of that trade) was as follows: —

French Colonies and Possessions.	Value of Imports to Hamburg.		
	1895.	1896.	1897.
	Marks.	Marks.	Marks.
New Caledonia (Cobalt ore)	96 610	108 200	701 470
East Indies (rice, cotton goods, &c.) .	3 050	11 600	753 280
Réunion (geranium oil, &c.)	58 850	Nil	11 450
Guyana (cocoa, &c.)	66 180	155 540	80 000
	224 690	275 340	1 546 200
Or, in £ sterling	11 235 £	13 767 £	77 310 £

3. It will have been seen from the wording of the official publication mentioned under (1) that the most-favoured-nation treatment is accorded by Germany also to the Colonies and possessions of the Netherlands. The trade between Germany and the Dutch Colonies in the East Indies, likewise viâ Hamburg, is of some importance. It was as follows during each of the last three years, viz.: —

	1895.	1896.	1897.
	Marks.	Marks.	Marks.
Imports from Dutch East Indies (coffee, tea, indigo, &c.) to Hamburg	4 117 620	5 008 310	3 662 000
Or, in £ sterling	205 881 £	250 415 £	183 100 £

4. The products (natural and industrial) of Spain and of Spanish Colonies and possessions which, by German Imperial Decree, dated the 25th May, 1894, were subjected to payment of an additional import duty in excess of the „General" Tariff rates, have, since the 25th July, 1896, been admitted into Germany at the „General" Tariff rates of import duty. || 5. The products of Portugal and of her Colonies and possessions likewise pay the rates fixed by the German General Tariff. || 6. With regard to the customs régime between France and her Colonies and possessions (excepting Algeria, which is, in fact, for customs purposes, a part of the Metropolitan country), it may here be stated that the imports from French Colonies and possessions to the Metropolitan country are admitted at special preferential rates, and are in many instances altogether exempt from duty, providing that these importations are the produce of such Colonies or possessions, that they are imported direct into France, and that proof be adduced of the French colonial origin. || As regards other points of the customs régime between the mother-country and the Colonies and possessions of France, the latter are, for customs purposes, divided into two groups, viz.: — || *First Group.* — Colonies and possessions having the same Customs Tariff as the Metropolitan country. These are: Guadeloupe and dependencies, Martinique, Guyana, Réunion, French Indo-China, St. Pierre and Miquelon, New Caledonia, Gaboon, Mayotte, Comoro Islands, Madagascar, Diego Suarez, Ste. Marie de Madagascar, and Nossi-Bé. || (*a.*) Goods imported from foreign (non-French) countries to the preceding Colonies are subject to the same rates of duty as in France herself; that is to say, such goods are subject to the rates either of the French „Minimum" or „Maximum" Tariff, according as one or the other may be accorded to the country of origin of such goods by the Metropolitan Customs Tariff. || (*b.*) Goods imported from the French Colonies and possessions into France enjoy a reduction of 50 per cent. for colonial natural products („denrées coloniales"), and entire exemption from duty is granted to all other kinds of goods derived from such Colonies and possessions. || *Second Group.* — This group is formed by the French Colonies and possessions which have their own respective Customs Tariffs. These are: French territories on the West Coast of Africa (excepting Gaboon), viz., Senegal, French Guinea Coast and dependencies, Dahomey and dependencies, Otahiti and dependencies, French possessions in India, Obock. || (*a.*) Goods imported into these Colonies, &c., are subject to import duties charged according to Tariffs which are established quite independently of the customs régime in the Metropolitan country. || (*b.*) Goods imported into France from this second group of Colonies or possessions are, in

principle, subject to the „Minimum“ French Metropolitan Tariff, excepting sugar and products derived therefrom, the importation of which are subject to the same special rates as the importation of sugar, &c., from the first group of French colonial possessions. || [Special rules are, amongst others, laid down in France regarding the duties and exemptions from duties for goods of foreign origin, and for products of the French Colonies and possessions themselves, when the same are imported into one of such Colonies or possessions from another, regarding the interpretation to be given to the term „direct“ importation, &c.] || 7. It is not possible for me at this moment to give any particulars regarding the customs régime in force between the Netherlands and the Colonial possessions of that country, but it would not be difficult to obtain such information within a short time if desired. || 8. The argument used at present in Germany amongst competent persons in defence of the action of the German Government in subjecting Canadian products to the rates of duty of the German General Tariff is (as I understand it) that Canada, having as regards its customs policy taken up the position and reponsibilities of an independent State, has now to be treated as such by Germany; that Canada has granted a reduction in the rate of duty to goods imported from the United Kingdom and to certain British Colonies, and that thus Germany is now no longer treated by Canada „the most favoured nation“ in respect of an import Tariff; and that, therefore, Germany finds herself obliged to treat Canada on the same footing, that is to say, to subject Canadian goods to the German General Tariff rates. The Germans consider that there is little or no analogy between the customs régime prevailing between France and her Colonial possessions and that between the United Kingdon and Canada. || 9. I may perhaps remark that the difference between the annual value of German exports to Canada and that of Canadian exports to Germany appears, in so far at least as regards the share of this trade wich passes through Hamburg, and which may, I believe, be estimated at about 75 per cent. of the aggregate import and export trade between Canada and Germany, to be growing less marked than it used to be. The following are the statistics for the last three years, viz.: —

Value in Sterling of Exports from Hamburg to Canada (British North America).

1895.	1896.	1897.
644 322 £	397 737 £	468 007 £

Value in Sterling of Imports to Hamburg from Canada (British North America).

1895.	1896.	1897.
127149 £	279051 £	372429 £

(Signed) William Ward,
Her Majesty's Consul-General.

Hamburg, August 19, 1898.

Nr. 13020. **GROSSBRITANNIEN.** — Der Botschafter in Berlin an den Minister des Ausw. Unterredung über den Ausschluß Kanadas.

Berlin, September 16, 1898. (September 19.)

(Extract.) || I have the honour to report that I took an opportunity of speaking to Herr von Derenthall this afternoon on the subject of the decision of the German Government to discontinue the most favoured treatment of imports from Canada. || I told his Excellency that the Canadian Government had been disappointed at learning that the German Government hat taken this decision, and that I had been instructed by your Lordship to make a communication to the German Government on the subject. || Herr von Derenthall replied that he had not had an opportunity of studying the question very deeply, but that it seemed to him that, as Canada declined to treat Germany on the footing of the most favoured nation, it was only natural that Germany should do the same. || He requested that what he had said might be considered his personal opinion, and as in no way committing the German Government. The Head of the Commercial Department was now absent on leave, but would return in the course of a few days, and he therefore begged me to postpone the communication I had been instructed to make until after his return. To this I consented.

Nr. 13021. **GROSSBRITANNIEN.** — Der Minister des Ausw. an die Botschaft in Berlin. Soll nähere Mitteilungen über die Behandlung Kanadas verlangen.

Foreign Office, June 24, 1899.

My Lord, || With reference to Sir F. Lascelles' despatch of the 16th September, 1898, I have been in further communication with the Colonial Office with reference to the decision of the German Government not to grant most-favoured-nation treatment to imports from Canada. ||

I have to instruct your Lordship to request the German Government to furnish you with a distinct statement of the grounds upon which they claim to distinguish the case of Canada from that of the French Colonies, and also from that formerly occupied by the Spanish and Portuguese Colonies under the Treaties of 1883 and 1872. || The fact that Canada has a larger measure of independence than the French, Spanish, or Portuguese Colonies does not appear to Her Majesty's Government to have any necessary bearing on the matter. These Colonies have, in most instances, like Canada, independent fiscal systems, and the grant by them of preferential treatment to their Metropolitan country appears not to have excluded them from most-favoured-nation treatment in Germany.

Salisbury.

Nr. 13022. **GROSSBRITANNIEN.** — Der Botschafter in Berlin an das deutsche Ausw. Amt. Warum wird Kanada von der Meistbegünstigung ausgeschlossen?

Berlin, June 28, 1899.

Your Excellency, || In the preamble to the recent Law prolonging the „Handelsprovisorium"*) with England, reference is made to the exclusion of Canada from most-favoured-nation treatment, on the ground that, since the expiry of the Commercial Treaty of the 30th May, 1865, higher duties are levied in that Colony on German goods than on goods coming from Great Britain and from several British Colonies. || As your Excellency is aware, Her Majesty's Ambassador had a conversation on this subject with Herr von Derenthal on the 16th September last, and Sir F. Lascelles then mentioned the disappointment felt by the Canadian Government on learning the decision taken by the Imperial Government. || In accordance with instructions which I have received from Her Mjaesty's Secretary of State for Foreign Affairs, I have now the honour te request your Excellency to favour me with a statement of the grounds upon which the Imperial Government desire to distinguish the case of Canada from the case of the French Colonies, and also from the position formerly occupied by the Spanish and Portuguese Colonies under the Treaties of 1883 and 1872. || The fact that Canada has a larger measure of independence than the French, Spanish, or Portuguese Colonies does not appear to Her Majesty's Government to have any necessary bearing on the matter. The Colonies of the countries above mentioned have in most instances, like Canada, independent fiscal systems, and the grant by them

*) Die deutsche Regierung hatte beim Reichstage eine Verlängerung des Handelsprovisoriums beantragt. (Publikation des Gesetzes am 12. Juli.) Red.

of preferential treatment to their Metropolitan country does not appear to have excluded them from most-favoured-nation treatment in Germany.

Gough.

Nr. 13023. **DEUTSCHES REICH.** — Das Ausw. Amt an den englischen Botschafter. Antwort auf das vorige.

Foreign Office, Berlin, August 5, 1899.

(Translation.) || In reply to Viscount Gough's note of the 28th June last respecting the relations between Germany and Canada, the Undersigned has the honour to make the following statement to his Excellency Sir Frank Lascelles: — || According to the present state of legislation Germany grants most-favoured-nation treatment, on principle, to those States and countries only whose claim thereto is based on Treaties. || An exception to the above principle was made with respect to the British Empire, inasmuch as the power was granted by law to the Federal Council of the German Empire to extend most-favoured-nation treatment autonomously to Great Britain and to all her Colonies and possessions, or to certain of them, for a limited period. || Upon the termination of the Anglo-German Treaty of Commerce of the 30th May, 1865, it was desirable also, in connection with the pending negotiations for a new Treaty, that this exception should be made, in order to contribute so far as possible to the maintenance of the state of things which had existed throughout the long duration of the Treaty of the 30th May, 1865. Under that Treaty as is well known the British Empire enjoyed most-favoured-nation treatment in Germany, granting in return the same treatment to Germany, this treatment being granted in the British Colonies and possessions not only as against foreign countries, but also as against the British mother-country. || These relations existing under the Treaty of the 30th May, 1865, were altered by Canada for her part, inasmuch as she has accorded to imports from Great Britain special Customs advantages which she is not prepared to extend to imports from Germany. It naturally resulted from this situation that the Federal Council of the German Empire did not extend to Canada the most-favoured-nation treatment, granted autonomously and as an exception to Great Britain and the British Colonies and possessions. The Federal Council would commit an act in contradiction to the conditions explicitly laid down in the Laws of the 11th May, 1898, and of the 1st July, 1899, were they to continue most-favoured-nation treatment to a British Colony which had, on her side, altered the relations hitherto existing to the detriment of Germany. || As regards the

French Colonies, our commercial relations with France and her Colonies are based upon the provisions of Article XI of the Treaty of Frankfort. Similar Treaty provisions were at one time in force with regard to Spain and Portugal. As soon as the Treaties with the latter countries expired their Colonies also ceased to enjoy the most-favoured-nation treatment previously granted to them by Germany. The system by which a foreign country competes on equal terms with the Metropolitan country in the latter's Colonies is in force on an extensive scale. So far as the commercial relations of Germany are concerned, attention may be drawn to the case of the Netherlands, which country, by Article 32 A and B, and further by section 14 of the Final Protocol of the Commercial Treaty of the 31 st December, 1851, now in force, grants to German products an equal treatment with those of the Netherlands upon importation into the Dutch Colonies, in return for which we grant most-favoured-nation treatment to the latter in Germany. Our relations with the Colonies of Denmark are of a similar kind. It should also be pointed out that in her own Colonies Germany knows no distinction between German and foreign goods. || If Germany's attitude towards Canada is based, according to the above, upon a foundation of law, it must also appear to be completely justified on grounds of fairness. Canada has deprived Germany of a valuable right, of which we retained possession for more than thirty years under the Anglo-German Commercial Treaty which has come to an end. || It cannot be expected of Germany that upon a change being made by one party in the state of affairs which has hitherto prevailed, she should accept the change without more ado; it is the less to be expected, as it is in the interests of the development of the commerce of the world, and of the mutual relations of trade and navigation between Germany and the British mother-country, that, in the British Colonies, equal treatment should be given to the products of Germany and of Great Britain. || The Undersigned avails, &c. Richthofen.

Nr. 13024. **GROSSBRITANNIEN.** — Der Botschafter in Berlin an den Minister des Ausw. Hat Bülow an die Verlängerung des Handelsprovisoriums erinnert.*)

Berlin, May 18, 1900. (May 21.)

(Extract.) || Some days ago I took an opportunity of reminding Count Bülow that the law under which most-favoured-nation treatment was

*) Am 23. Juli wird die Verlängerung des Handelsprovisoriums unter Ausschluß von Kanada und Barbados von der Meistbegünstigung publiziert. Red.

accorded in Germany to Great Britain and her Colonies, with the exception of Canada, would expire on the 30th July next, and I expressed the hope that the necessary measures would be taken during the present Session of the Reichstag to prolong the term. || Baron von Richthofen informed me this morning that inquiries had been made in the proper quarter, and that he was authorized to inform me that a Bill would very shortly be submitted to the Federal Council and to the Reichstag for a prolongation of the term, and that it was to be anticipated that the Bill would become law.

Nr. 13025. **GROSSBRITANNIEN.** — Die Botschaft in Berlin an das deutsche Ausw. Amt.

Berlin, June 23, 1900

Your Excellency, || I have been instructed by my Government to communicate to the Imperial German Government the inclosed copy*) of the Barbados Act No. 18 of the 15th May, 1900, as also a copy*) of the Table of Import Duties at present in force in Barbados. || Your Excellency will perceive that, by Articles 5 and 9 of the above Act, the special Tariff, under which German products were subjected to higher duties on entry into Barbados than the products of certain other nations, is not now in force, and will not come into operation until the 31th December next, unless the Convention for reciprocal tariff Concessions between the United States of America and Barbados is ratified before that date.

Gough.

Nr. 13026. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Berlin. Hat die deutsche Regierung Schritte zur Verlängerung des Handelsprovisoriums unternommen?

Foreign Office, March 18, 1903.

Sir, || I request that your Excellency will endeavour to ascertain what steps, if any, are being taken by the German Government with regard to the Law empowering them to give most-favoured-nation treatment to this country after the 31st December next, on which date, as you will remember, the arrangements made under the Law of the 29th May, 1901, come to an end.

Lansdowne.

---

*) Nicht gedruckt.

Nr. 13027. **GROSSBRITANNIEN.** — Der Botschafter in Berlin an den Minister des Ausw. Antwort auf das vorige.

Berlin, March 27, 1903. (March 29.)

My Lord, || With reference to your despatch of the 18th instant, I have the honour to report that I called upon Baron von Richthofen on the 24th instant, and informed him that I had received Lordship's instructions to ascertain what steps were being taken by the German Government with regard to the Law empowering them to give most-favoured-nation treatment to England after the 31th December next. I added that I had requested Mr. Gastrell to see Dr. von Koerner, the Head of the Commercial Department in the Ministry for Foreign Affairs, and to ask him how the matter stood. || Dr. von Koerner had replied that he doubted whether the question could be submitted to the Reichstag during the present Session, which was now drawing to a close, as it might lead to a discussion on the subject of the Commercial Treaties in general, which it would be advisable to postpone until the new Reichstag should have assembled, but he would make inquiries, and let Mr. Gastrell know the result. || I told Baron von Richthofen that personally I did not feel any great apprehension, for it appeared to me that the withdrawal of the most-favoured-nation treatment would be very detrimental to the commercial interests of Germany, but that in order to avoid the inconvenience to commerce which uncertainty might cause, it might be advisable to obtain the sanction of the Reichstag at once to its prolongation. Baron von Richthofen said that a discussion on the question of Commercial Treaties would certainly not be desirable at present. The elections were to take place in June, and the new Reichstag would perhaps meet in October. The question of the Commercial Treaties would then be discussed by them, and that might be the best opportunity for obtaining the prolongation of most-favoured-nation treatment to England. || On my return to the Embassy after this conversation, Mr. Gastrell informed me that Dr. von Koerner had asked him to call upon him in the course of the afternoon, and had expressed the wish to be furnished with an official application for the information which your Lordship had instructed me to obtain. || I, therefore, addressed to Baron von Richthofen the note of which I have the honour to inclose a copy, and later in the evening I took the opportunity of his Excellency's presence at a party at the Embassy to inform him that I had done so.

Frank C. Lascelles.

Anlage.

Sir F. Lascelles to Baron von Richthofen.

Berlin, March 25, 1903.

Your Excellency, || I have received a despatch from the Marquess of Lansdowne, in which his Lordship instructs me to endeavour to ascertain what steps, if any, are being taken by the Imperial Government with regard to the Law empowering them to give most-favoured-nation treatment to Great Britain and Ireland, her Colonies and foreign possessions (with the exception of Canada) after the 31st December next, on which date, as your Excellency is aware, the arrangements made under the Law of the 29th May, 1901, come to an end. || I shall be much obliged if your Excellency will be good enough to supply me with any available information as to the intentions of the Imperial Government in regard to Anglo-German commercial arrangements after the expiration of this year. Frank C. Lascelles.

Nr. 13028. **GROSSBRITANNIEN.** — Der Botschafter in Berlin an den Minister des Ausw. Unterredung mit Richthofen über die Behandlung Kanadas.

Berlin, April 23, 1903. (April 25.)

My Lord, || With reference to my despatch of the 18th instant, I have the honour to report that in an interview with Baron von Richthofen on the 21st instant I told his Excellency that I had communicated to your Lordship by telegraph the substance of his note of the 15th instant, stating that the German Government proposed in due course to propose to the Reichstag the prolongation of the Law empowering the Bundesrath to extend to Great Britain and her Colonies most-favoured-nation treatment after the end of 1903, but expressing a doubt whether this would be possible in view of the opposition which might be expected in the Reichstag in consequence of the recent action of the Canadian Government in penalizing German goods, and the reported intention of the South African Colonies to treat the produce of the mother-country more favourably than the produce of other countries. || Baron von Richthofen said that it was the action of Canada in giving preverential treatment to Great Britain that had brought about the denunciation of the Treaty of Commerce, and if other British Colonies followed her example, and large portions of the British Empire were to give preferential treatment to Great Britain, it would be very difficult to obtain the consent of the Reichstag to the prolongation of most-favoured-nation treatment to Great

Britain herself. His Excellency added that the competent authorities were now considering whas measures should be taken in consequence of the action of the Canadian Government. || I said that the commercial relations of our two countries were so large that anything in the nature of a Customs war would do incalculable harm to both, an opinion fully shared by his Excellency, but that I fully believed that if any serious damage were done to British trade by the non-prolongation of most-favoured-nation treatment, the outcry in England would be so great that His Majesty's Government would be forced, however unwillingly, to take retaliatory measures. Frank C. Lascelles.

Nr. 13029. **GROSSBRITANNIEN.** — Der Minister des Ausw. an die Botschaft in Berlin. Rekapituliert die Verhandlungen über Kanada. Anschauungen der englischen Regierung.

Foreign Office, June 20, 1903.

Sir, || His Majesty's Government have had under their careful consideration Sir F. Lascelles' despatches of the 18th and 23rd April last relating to commercial relations with the German Government, and more especially to commercial relations between the German Empire and Canada. || It will be as well before informing you of the views of His Majesty's Government on the subject, that I should briefly recapitulate the circumstances which have brought about the present position of affairs. || Under „The Customs Tariff of 1897", Canada offered preferential Tariff advantages to any country fulfilling certain conditions of reciprocity, and as the United Kingdom already fulfilled these conditions British goods received the benefit of the reduced Tariff. But by the Treaty of 1865 between Great Britain and the German Zollverein, German goods were entitled to the same treatment in British Colonies as British goods, and the German Government having made a claim to this effect, the Canadian Government asked that they might be freed from these stipulations. The Treaty was accordingly denounced by His Majesty's Government on the 30th July, 1897, and expired on the 30th July, 1898. || Early in 1898 „The Canadian Tariff Act" was amended, and after the 1st August of that year preferential treatment in Canada was expressly confined to Great Britain and to certain British Colonies, the ordinary Canadian Tariff being applied impartially to all foreign countries. || On the 11th June, 1898, the German Federal Council sanctioned the proposal to continue most-favoured-nation treatment to Great Britain and her

Colonies and Posssessions — Canada alone excepted. || The Canadian Government, upon this, called the attention of His Majesty's Government to the action of the Federal Council, and a letter was addressed by Lord Strathcona, High Commissioner for Canada, to the Colonial Office, protesting against the treatment to which the Dominion was subjected. It was pointed out that Canada was extending to Germany the same privileges as those accorded by the Dominion to other foreign Powers, and would on her part be gratified to continue this policy. In these circumstances, the Dominion Government expressed the hope that the German Government would find it possible to alter their decision. || This letter was forwarded to Sir F. Lascelles, who made a verbal communication to the German Government as to the manner in which their action was viewed by the Canadian Government. || On the 28th June, 1899, the attention of the German Government was recalled to the matter by Viscount Gough. In accordance with instructions, his Lordship asked for a statement of the grounds upon which the German Government desired to distinguish the case of Canada from the case of the French Colonies, which were in the habit of discriminating in their Tariffs in favour of imports from the mother country, and also from that of the Portuguese and Spanish Colonies which, under the Treaties of 1872 and 1883, exercised a similar power. Lord Gough stated that the fact that Canada had a larger share of independence than these Colonies did not appear to have any bearing on the matter. || Baron von Richthofen replied, in a note dated the 5th August, 1899, that the action of the German Government was based on grounds of fairness, inasmuch as Canada had deprived Germany of a valuable right which she had enjoyed for more than thirty years. || In the autumn of 1901, the Canadian Government came to the conclusion that as the diplomatic negotiations which had been conducted through this Office hat not proved successful, it would be well to discuss the subject with M. Bopp, the German Consul at Montreal. These efforts to bring about a better understanding with Germany unfortunately also failed.

After having patiently waited for five years in the hope of coming to an arrangement with Germany, the Canadian Government decided, in April, 1903, that they could no longer allow the matter to remain on a footing so detrimental to Canadian interests. A clause was accordingly inserted in the Canadian Tariff to the effect that when any foreign country treated imports from Canada on less favourable terms than imports from other countries, a surtax amounting to one-third of the duty according to the general Tariff might be imposed. This clause was

general in its terms, and applicable to the goods of any country which might treat Canadian products unfavourably. It was applied immediately in the case of Germany, and took effect on the 16th of that month, except as regards goods purchased before the 17th April. In the case of such goods it is to apply from the 1st October next. || Sir F. Lascelles, in his despatch of the 16th April last, reported that Baron von Richthofen had informed him that most-favoured-nation treatment would, he thought, certainly be continued to the United Kingdom, but that as the South African Colonies had decided to give a Tariff preference to English goods, it was now matter for consideration whether they as well as Canada should not be excepted from such treatment; and that if Australia should also give the mother country a Tariff preference, a situation would be created which would render it very difficult for the German Government to obtain the consent of the Reichstag to the conclusion of a Commercial Treaty between the United Kingdom and Germany. || During Sir F. Lascelles' conversation with Baron von Richthofen of the 21st April last, his Excellency stated that if the example of Canada in giving a Tariff preference to the United Kingdom were followed by other British Colonies so as to cover large portions of the British Empire, there would be great difficulty in obtaining the consent of the Reichstag to a continuation of most-favoured-nation treatment for this country; and he further informed His Majesty's Ambassador that the competent authorities were considering what measures should be taken in consequence of the recent action of Canada, to which I have referred. || This communication has greatly increased the difficulty of the situation, and I have now to give you the following instructions as to the language which you should hold with regard to this most important question. You should, in the first place, remind the German Government that the Treaty of 1865 between the United Kingdom and Germany was terminated by His Majesty's Government, in order that this country and her Colonies might be at liberty to make such arrangements as might be considered desirable in respect of their mutual trade. To this policy His Majesty's Government adhere. || As regards Canada the action of the Dominion, as I have shown, was taken only after every effort had been made to secure fair treatment for Canadian produce in Germany. It was only after these efforts had failed, and Germany had persistently refused to accord to Canadian produce the same most-favoured-nation treatment that Canada accorded to German produce, that Canada was driven in self-defence to measures of retaliation. If Germany will restore Canadian produce to the most-favoured-nation terms, His Majesty's Government have not the least doubt

that the increased duties which have just been imposed on German goods will be at once removed. || Should the German Government, however, persist in the attitude which they have taken up on this matter, and, further, extend to the products of other British Colonies, and even to those of the United Kingdom, whose Tariff is at the present moment based upon the most liberal principles, the discrimination which they have enforced against Canada, a very wide and serious issue must inevitably be raised involving the fiscal relations of this country and the German Empire. Lansdowne.

Nr. 13030. **DEUTSCHES REICH.** — Der Staatssekretär des Ausw. Amts an den Botschafter in London. Antwort auf das vorige. Ansicht der deutschen Regierung.

Berlin, June 27, 1903.

(Translation.) || Mr. Buchanan, His Britannic Majesty's Chargé d'Affaires, handed in on the 23rd instant a copy of the instructions addressed by Lord Lansdowne to the British Embassy here in regard to the commercial relations between Germany and Canada I have the following observations to offer on these instructions. At the same time, I venture to hope that an explanation of the German standpoint in the matter will contribute to the removal of the erroneous ideas which, to all appearance, are very prevalent in England on the subject of the grounds and justification of the German attitude. || Up to the 30th July, 1898, the commercial relations between Germany on the one hand and Great Britain and her Colonies on the other were regulated by the Anglo-German Commercial Treaty of the 30th May, 1865. This Treaty secured to each of the two Parties most-favoured-nation treatment in the territory of the other Party, and secured, indeed, to Germany most-favoured-nation treatment in the English Colonies, even as against Great Britain, the mother country. When the Commercial Treaty had expired in consequence of its denunciation by Great Britain, she and her Colonies lost the right in virtue of which the grant had been made to them of the reduced scale of duties included by Germany in her Tariff Treaties with other States. In Germany there are, as is well known, two Tariffs: the General Customs Tariff, which, by law, is applied to all those countries with which no Agreements to the contrary are in force; and the so-called Conventional Tariff, which comes into force when Treaty arrangements on the subject are made, and which is purchased by concessions on the part of the various Treaty States, consisting especially in the

modification of numerous items in their own autonomous Tariffs. Consequently, after the Anglo-German Commercial Treaty had ceased to be valid, the provisions of the autonomous German Customs Tariff had to be applied to Great Britain and her Colonies. It required a special Act of the German Legislature to make an exception to the rule in question, since, firstly, in virtue of the Law of the 11th May, 1898, and of subsequent Laws, and lastly, in virtue of the Law of the 29th May, 1901, Great Britain and her Colonies, with the exception of Canada and, for a time, Barbados, were accorded, up to the 31st December, 1901, the lower Customs rates. This procedure shows a special desire on the part of Germany to meet the wishes of Great Britain, for which there is no example in German legislation either before or since. It was caused by the wish of the Imperial Government to make their commercial relations with Great Britain and her Colonies as friendly as possible, even after the expiry of the Commercial Treaty; the justification for it could, however, only be found in the fact that the expiry of the Commercial Treaty brought about no alteration in Customs Tariffs affecting imports from Germany into Great Britain and her Colonies except Canada, and, temporarily, Barbados, and that it was, therefore, fair to maintain in Germany, as regards those territories, the state of things which had actually existed hitherto. The condition mentioned did not affect Canada, because, after the expiry of the Commercial Treaty, preferential duties in favour of the mother country were put in force there, from which imports from Germany were excluded, and because the latter were subsequently also denied those privileges which Canada, by the Commercial Agreement with France of the 6th February, 1893, hat granted to certain French products. Therefore, the exception made by Germany could not be extended to Canada. || The application of the German General Tariff to Canada entails, therefore, no unjustifiable discrimination, still less any penalizing of that Colony, as has often been asserted; the measure is merely a consequence of the expiry of the Anglo-German Commercial Treaty, and is necessitated by German law. No penal measures or additional duties have so far, and this must be expressly emphasized, been applied by Germany to Canada.

Moreover, there is in the German procedure — for we wish also to correct this supposition, which has been often repeated — no interference in the relations between mother country and Colony. After the expiry of the Anglo-German Commercial Treaty, Germany could only choose whether she would apply her General Tariff to Great Britain and all her Colonies, as according to German law would have been necessary in

the ordinary course, or whether she would limit the application of the General Tariff to those parts of the British Empire in which there had been an alteration of the *status quo* affecting imports from Germany. The choice of the latter alternative, which is much more favourable to Great Britain and her Colonies, is considered by Germany to be requisite in the interests of mutual commercial policy, and to be practically justified because Great Britain had declared on the most diverse occasions that her Colonies formed independent territories for customs purposes, and were independent as regards their decisions respecting the regulation of their relations with foreign countries. The wish to realize this idea was not only the reason and object of the denunciation of the Anglo-German Commercial Treaty, but also came several times to the fore during the consequent negotiations for the renewal of that Treaty, and latterly, at the Brussels Sugar Conference, found very notable expression in the independent attitude as regards the Convention which England strove to reserve for her autonomous Colonies, by making their accession of non-accession to it perfectly free, and thus establishing for the other States parties to it the possibility of differential treatment for the various parts of the British Empire. The same idea is apparent in the instructions communicated to us, for the reason there given for the denunciation of the Anglo-German Commercial Treaty is „that this country and her Colonies might be at liberty to make such arrangements as might be considered desirable in respect of their mutual trade". || If the English Colonies are to be in a position to follow out their own customs policy, other countries must be allowed to treat them as separate customs territories. || The circumstances which led in Germany to the special treatment of Canada have repeatedly been stated by Germany, and have also been appreciated by the Canadian Government. The Canadian Minister of Finance, Mr. Fielding, expressed himself last year in the Budget debate, according to the shorthand report, as follows: — || „As I have pointed out on a previous occasion, Germany has two Tariffs — one for the world generally, the other, known as the Conventional Tariff, for those countries which have Commercial Treaties with Germany. I suppose many honourable gentlemen will say that this is sound policy. Germany had a Treaty with Canada, or Canada participated in an Imperial Treaty with Germany; and under that Treaty Canada had the advantage from what is called the Conventional Tariff as respects Canadian products. Canada put an end to that Treaty for her own purposes for good and sufficient reasons. Not one party in Canada, but all of Canada, reached the conclusion that this Treaty was not in the best interest of Canada,

or of the Empire, and it should come to an end. Our sister Colonies took the same view on the subject; but it was admittedly the action of Canada above all others which brought about the denunciation of the German and Belgian Treaties. When we ceased to have that Treaty with Germany, when we ceased to extend to Germany many certain privileges which she had enjoyed, Germany withdrew from us the privileges of its Conventional Tariff. Canada thus came into the class of non-Treaty countries, the products of which were subject to the higher Tariff. Let us not deny that from one point of view there was some colour of excuse for the German action." || The Imperial Government were naturally all the more surprised when the same Canadian Minister of Finance, in this year's Budget debate, after Canadian products had been liable in Germany for nearly five years to the provisions of the autonomous Tariff, notified the imposition of extra duties on those imports from Germany into Canada which were liable to duty.

If one examines what has been done by England and Canada — who were responsible for the denunciation of the Anglo-German Commercial Treaty, for the differential treatment of German imports into Canada, and, lately, for the imposition of extra duties on German goods — to remove the existing cause of dispute, the position, from the German point of view, is as follows: — || The only official correspondence in writing which has passed on the subject between the Imperial and British Governments consists of the notes of the 28th June and the 5th August, 1899, mentioned in the instructions. In the former note the English Government inquired why Germany treated Canada differently to the French, Spanish, and Portuguese Colonies. In reply, the German Government explained, in the latter note, that Germany was bound, as regards the French Colonies, by Article 11 of the Peace of Frankfurt, while they had only accorded most-favoured-nation treatment in Germany to the Spanish and Portuguese Colonies, so long as to that effect Treaties existed with Spain and Portugal. Further, the note stated in detail the grounds which governed the German attitude. England never refuted or even replied to these arguments. || In November 1901 the Canadian Premier, Minister of Finance, and Minister of Customs invited the Imperial Consul at Montreal to a confidential discussion at Ottawa as to the possible preparation of an Agreement with Germany. In the course of this discussion, the Canadian Government demanded the grant of all the modifications of the German Conventional Tariff, and were only willing to give in return the few modifications of duties agreed on in the Franco-Canadian Commercial Treaty, which are of trifling importance for Germany,

who only exports such goods to Canada in extremely small quantities. || Any further compromise was refused by Canada, and Germany was even denied the concession which Canada had made without hesitation in the Treaties with France and other nations, namely, general most-favoured-nation treatment as compared with third States, but which Canada in her relations with Germany claimed as a matter of course. Although in such an Agreement all the advantages were on the side of Canada and the sacrifices on the side of Germany, the Imperial Government did not break off the negotiations as hopeless, but, as the new German Customs Tariff was at that time under discussion in the Bundesrath and Reichstag, confined herself to pointing out that the position of affairs thus created made it impossible for Germany to proceed to the conclusion of a new Commercial Agreement, even if only intended to be provisional. || The conversations with Sir Frank Lascelles in April last, mentioned in the instructions, were subsequent to the decision of the Canadian Government to make reprisals against Germany, and subsequent to the order for these reprisals. If at that time it was confidentially mentioned that the German Reichstag might, in case of further injury to imports from Germany by the British Colonies, refuse to give, after the 31th December next, to Great Britain and her Colonies, or to one or more of those Colonies, the rates of the German Conventional Tariff, the reason is that the Imperial Government, especially the last time, when the Law of the 29th May, 1901, was promulgated, had to overcome great difficulties bevore even obtaining the consent of the Reichstag. That consent, however, is, as an Imperial law is in question, absolutely necessary under the Constitution of the Empire. || These explanations show that, in our opinion, the English view of what has passed, is based in many respects on incorrect assumptions, and the responsibility for the initiation and the aggravation of the conflict, cannot properly be laid on Germany. || But even if, after this, the theoretical points of view of the parties remain opposed to each other, an attempt ought still to be made to arrive at a practical solution of the existing differences of opinion. || Guided by these views, the Imperial Government declare themselves quite ready to enter on an exchange of ideas in regard to a method of obviating the present difference, and leave it to His Majesty's Government, in case of an understanding on the point, to make suitable proposals with this object. || I request your Excellency to express yourself to the Government in London in accordance with the foregoing explanations. At the same time, your Excellency is authorized to give them a copy of this letter. Richthofen.

Nr. 13031. **GROSSBRITANNIEN.** — Der Minister des Ausw. an die Botschaft in Berlin. Verteidigt die kanadische Gesetzgebung. Vorschlag über die Form der Verhandlungen.

Foreign Office, July 8, 1903.

Sir, || The German Ambassador left with me on the 1st instant a copy of the note addressed to him on the 27th ultimo by Baron von Richthofen respecting the commercial relations between Canada and Germany. || His Majesty's Government fully appreciate the friendly tone in which the note is couched, as well as the desire expressed in it to arrive at a practical solution of the question at issue between the two countries. || That desire is shared by His Majesty's Government, and it is only with the object of removing misaprehensions that they offer the following comments upon Baron von Richthofen's statements: — || They observe that the exclusion of Canada from most-favoured-nation treatment in Germany is represented as the natural and inevitable consequence of the denunciation of the Commercial Treaty of 1865, and complaint is apparently made of His Majesty's Government for having suggested that this exclusion was to be regarded as a punitive measure, or as an undue attempt by Germany to interfere in the relations of the mother country with her Colonies. || His Majesty's Government desire that it should be clearly understood that they have no intention to call in question the motives of the German Government. His Majesty's Government are, indeed, in no wise concerned with those motives, but only with the action of Germany and its consequences to the different parts of the British Empire. || That action has incontestably had the effect of bringing about the loss by Canada of the relatively advantageous position which she occupied prior to 1897, a loss which she has sustained not because she had imposed upon German imports customs duties exceeding those to which they were previously subject, nor because she had treated Germany differently from other foreign countries with which she had commercial relations, but because Canada had refused to extend to Germany a special concession made by her to the mother country, in pursuance of a policy deliberately adopted for the purpose of promoting the national trade of the British Empire. It is not disputed that Germany has the right to regard this question from her own point of view, and to deal with it in whatever manner may best suit her interests. There remains, however, the fact that in the result a British Colony has been made to suffer not for discriminating against Germany in favour of other foreign countries, but for according preferential treatment to the imports of the mother

country. It was in reply to this action on the part of Germany that, in April 1903, the Canadian Government imposed upon German imports the additional taxation to which reference is made in the German note. || With reference to the statement made by Baron von Richthofen that German imports were denied in Canada the privileges granted by the latter to certain French products under the Commercial Agreement between Canada and France of the 6th February, 1893, His Majesty's Government desire to point out that Canada at first extended those advantages to German goods, and only withdrew them after Germany had refused to continue to her the treatment of the most favoured nation. || The importance of the question, already one of the utmost moment to Great Britain and her Colonies, was greatly increased by the intimation contained in Baron von Richthofen's note of the 15th April last, inclosed in Sir F. Lascelles despatch of the 18th April. || Baron von Richthofen apparently desires to treat this intimation, which he describes as having been confidentially made to Sir F. Lascelles, as an *obiter dictum* of no great importance. It was, however, impossible for His Majesty's Government so to regard it. || The announcement made in Baron von Richthofen's note, which was not marked Confidential, and was of the most authoritative character, seemed to them at the time and still seems to them capable of no other interpretation than this: that if other British self-governing Colonies should follow the example of Canada and accord national treatment to British imports, the German Government might find themselves compelled to refuse not only to those Colonies but to Great Britain herself the treatment which, in view of the liberal terms upon which German imports are admitted to this country, we are entitled to expect upon the most ordinary grounds of reciprocity. || Whether such a refusal were to be the result of a policy recommended to the Reichstag by the German Government, or were to be imposed upon the German Government by the Reichstag, would, so far as British interests are concerned, be immaterial. Baron von Richthofen's intimation was regarded by His Majesty's Government as not lightly given and not to be lightly received. || Such retaliation on the part of the German Government would, in our opinion, not be justifiable in itself, and would be inconsistent with the attitude which, as we understand Baron von Richthofen's argument, the German Government desire to assume towards the British self-governing Colonies. If it be true, as stated in the note, that those Colonies are regarded by the German Government as „independent customs districts" which foreign Powers are at liberty to treat as such, it would follow that no responsibility would attach to the mother country for

their external Tariff arrangements, and that it would be wholly inequitable and illogical to retaliate upon the mother country in consequence of the manner in which the Colonies had made use of their opportunities. This argument, however, although it appears to His Majesty's Government a legitimate rejoinder to that of Baron von Richthofen, is not one on which they desire to lay stress, for, so far as the present controversy is concerned, they have no intention of drawing a distinction between their own interests and those of the self-governing Colonies. || I have thought it desirable to make these observations in reply to those contained in Baron von Richthofen's note. It seems to me, however, that if the question is to be further discussed, it would be to the advantage of both sides that it should, as suggested by Baron von Richthofen, take the form of an exchange of ideas in regard to the means of obviating the present difference, and His Majesty's Government would certainly be ready to approach such a discussion in the most considerate spirit. || You are authorized to make a communication in the sense of this despatch to the German Government, and to leave a copy with Baron von Richthofen.

Lansdowne.

Verhandlungen über die Besetzung der Mandschurei und Niutschwangs durch Rufsland. 1901—1904.*)

Nr. 13032. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg und den Gesandten in Peking. Ist die Nachricht der „Times" über eine russisch-chinesische Teilung der Mandschurei zutreffend?

Foreign Office, January 3, 1901.

(Telegraphic.) || Report what you can ascertain in regard to an alleged Agreement between Russia and China dealing with Southern Manchuria, the substance of which was given by the Peking correspondent of the „Times", in a telegram dated the 31st December, which appeared in its issue of the 3rd January. It involves the resumption of civil government by the Chinese under what is virtually a Russian Protectorate.

Anlage.

Extract from the „Times," January 3, 1901.

Peking, December 31, 1900.

An Agreement has been concluded between Russia and China regarding the Russian military occupation of Feng-tien, the southern and most important province of Manchuria, and the resumption of Chinese civil administration under Russian protection. The Agreement was signed by a representative of Tseng, the Tartar-General at Mukden, and General Korostovitch, representing Admiral Alexeieff, the Russian Commander-in-chief. Russia consents to allow the Tartar General and the Chinese officials to resume the civil government of Mukden and Feng-tien province, on the following conditions: — || 1. The Tartar-General Tseng under-

*) Engl. Blaubuch Cd. 1936. (China 2. 1904.) Vgl. Bd. 65. 66.

takes to protect the province and pacify it, and to assist in the construction of the railroad. || 2. He must treat kindly the Russians in military occupation, protecting the railway and pacifying the province, and provide them which lodging and provisions. || 3. He must disarm and disband the Chinese soldiery, delivering in their entirety to the Russian military officials all munitions of war in the arsenals not already occupied by the Russians. || 4. All forts and defences in Feng-tien not occupied by the Russians, and all powder magazines not required by the Russians, must be dismantled in the presence of Russian officials. || 5. Newchwang and other places now occupied by the Russians shall be restored to the Chinese civil adminstration when the Russian Government is satisfied that the pacification of the province is complete. || 6. The Chinese shall maintain law and order by local police under the Tartar General. || 7. A Russian Political Resident, with general powers of control, shall be stationed at Mukden, to whom the Tartar General must give all information respecting any important measure. || 8. Should the local police be insufficient in any emergency, the Tartar General will communicate with the Russian Resident at Mukden and invite Russia to dispatch reinforcements. || 9. The Russian text shall be the standard. || The functions given to the Russian Resident are similar to those of the Russian Resident at Bokhara, or of the British Residents in the native States in India. || The Agreement will necessarily be followed by similar Agreements with reference to the other two provinces, and then Manchuria will be a *de facto* Russian Protectorate, Russia by a pre-existing Agreement having already the right to maintain all necessary troops for the protection of the railway.

Nr. 13033. **GROSSBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Das Abkommen scheint nur lokale Eisenbahnfragen zu enthalten.

St. Petersburgh, January 5, 1901. (January 5.)*)

(Telegraphic.) || With reference to your telegram of the 3rd instant, it is impossible to ascertain facts with accurancy as yet, but it seems to be generally believed here that some provisional Agreement, such as that indicated, has been concluded by Russia with the local authorities in Manchuria, and that she may eventually acquire by Treaty the right to finish building the railway line through Manchuria to Port Arthur, and

*) Die eingeklammerten Daten geben das Datum des Empfangs an. Red.

to protect it herself, the rights of the Russo-Chinese Company being transferred to the Russian Government.

Nr. 13034. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Das Abkommen scheint authentisch zu sein.

Peking, January 4, 1901. (January 5.)

(Telegraphic.) || Your Lordship's telegram of yesterday. || It is believed that the report as telegraphed to the „Times" is authentic. Delegates of Tsêng Ch'i, the Tartar General, and of Admiral Alexeieff, the Russian Commander-in-chief, appear to have signed it on the 22nd November. || The Convention is said to be now in Peking awaiting confirmation. This confirmation is not likely to take place, I learn from Chinese sources, because the Chinese Delegate who signed at Port Arthur did so without being duly authorized. Any information obtainable will be telegraphed to your Lordship.

Nr. 13035. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Tokio. Japan wünscht gemeinsam mit England Näheres über das Abkommen zu erfahren.

Foreign Office, January 12, 1901.

Sir, || The Japanese Minister called here to-day and informed Mr. Bertie that his Government had inquired of the Russian Government whether it was true, as reported, that arrangements had been made between the Russian Government and the Chinese authorities for negotiations with the Chinese Minister at St. Petersburgh in regard to a settlement of affairs in Manchuria, and, if so, what was the nature of the proposed arrangements for making this communication. Baron Hayashi stated that it would be for the interests of both Great Britain and Japan to obtain all the information possible on the subject, and that he was instructed to suggest that the action taken by the Japanese Government in the matter would probably be attended with a more satisfactory result if similar inquiries were also made by Her Majesty's Government.

Lansdowne.

Nr. 13036. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking. Der chinesische Gesandte leugnet die Existenz eines solchen Abkommens.

Foreign Office, January 15, 1901.

Sir, || The Chinese Minister told me to-day that it was not the case that an agreement, as stated in the newspapers, had been arrived at between the Chinese and Russian Governments for the occupation of the Province of Manchuria by the latter.

Lansdowne.

Nr. 13037. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Tokio. Der japanische Gesandte in London macht Mitteilungen über das russisch-chinesische Abkommen und wünscht Vorstellungen dagegen.

Foreign Office, February 5, 1901.

Sir, || The Japanese Minister informed me this afternoon that his Government had learnt from a reliable source that the Russian Government was pressing the Chinese Government to ratify the Agreement which had been concluded between Admiral Alexeieff and the Chinese General Commanding in Manchuria in regard to that province. || The Japanese Government had authorized him to say that they proposed to inform the Chinese Minister at Tôkiô that in the opinion of the Japanese Government the conclusion of any such Agreement would be „a source of danger" to the Chinese Government, and that no arrangement affecting territorial rights in the Chinese Empire ought to be concluded between the Chinese Government and any one of the Powers. || Baron Hayashi suggested to me that a similar intimation should be made by His Majesty's Government to the Chinese Minister in London. || He said that, in the opinion of the Japanese Government, the only safety for China lay in coming to terms with the whole of the Powers. || Baron Hayashi also informed me that the Chinese Government, if left to itself, would like to repudiate the Manchurian Agreement, and punish the Tartar General who had concluded it. But he doubted their having sufficient strength of mind to act in this manner, unless they received moral support from some of the Powers. || I promised to consider Baron Hayashi's suggestion.

Lansdowne.

Nr. 13038. **GROSSBRITANNIEN.** — Der Minister des Ausw. an die deutsche Botschaft in London. Dasselbe.

His Majesty's Government understand that the Russian Government are pressing the Chinese Government to ratify the Agreement concluded between Admiral Alexeieff and the Chinese General Commanding in Manchuria in regard to that province. || They also understand that the Chinese Government would like, if encouraged by foreign Powers, to repudiate the Agreement, and punish the Tartar General who concluded it. || In these circumstances, the Japanese Government propose to inform the Chinese Minister at Tôkiô that the conclusion of any such Agreement would be a source of danger to the Chinese Government, and that no arrangement affecting territorial rights in the Chinese Empire ought to be concluded between the Chinese Government and any one of the Powers. || His Majesty's Government are disposed to make a similar communication to the Chinese Minister in London.

Foreign Office, February 7, 1901.

Nr. 13039. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Berlin. Die deutsche Regierung wünscht keine Sonderverträge Chinas finanziellen oder territorialen Charakters.

Foreign Office, February 12, 1901.

Sir, || Baron Eckardstein informed me to-day, in reference to the conversation which I had with him on the 7th instant, and which was recorded in my despatch of the 7th instant to your Excellency, that the German Government would instruct their Minister at Peking to make an intimation to the Chinese Government in the following terms: — || „In the opinion of the Imperial Government the Chinese Government should not conclude with any Power individual Treaties of a territorial or financial character before they can estimate their obligations towards all the Powers as a whole, and before the compliance with such obligations is accepted." || The German Government would communicate this intimation to their Minister at Tôkiô, and it would also be made at Berlin to the Chinese Minister there. || I expressed my satisfaction at learning that the German Government were prepared to adopt this course. Although the language used varied somewhat from that which we had suggested, it seemed to me that, in principle, the two announcements were in agreement, and I trusted that they would have a salutary effect.

Lansdowne.

Nr. 13040. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking. Soll China vor dem Abkommen mit Rußland über die Mandschurei warnen.

Foreign Office, February 13, 1901.

(Telegraphic.) || Russo-Chinese Agreement respecting Manchuria. || The German Government will inform the Chinese Government that they should not, in the opinion of the Imperial Government, conclude individual Treaties of a territorial or financial character with any Power before they can estimate their obligations towards all the Powers as a whole, and before the compliance with such obligations is accepted. || I have informed the Chinese Minister that any such Agreement as that reported to have been concluded with regard to Manchuria would, in the opinion of His Majesty's Government, be a source of danger to the Chinese Government, and that no Arrangement affecting territorial rights in the Chinese Empire ought to be concluded between the Chinese Government and any one of the Powers. || I request that you will make a communication to the Chinese Government in the terms of that made by me to the Chinese Minister as reported above. || (Repeated to Tôkiô.)

Nr. 13041. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Übersendet den Vertrag, dessen Unterzeichnung Rußland von China verlangt.

Peking, February 27, 1901. (February 27.)

(Telegraphic.) || The following are, I learn, the provisions of the Treaty which the Russian Government is pressing upon the Chinese Minister at St. Petersburgh: — || 1. Manchuria to be restored. || 2. Until the last four provisions of the Treaty are carried out, Russia will maintain an additional force for the protection of the Manchurian Railway. || 3. Assistance to be given to China by Russia in keeping order. || 4. No army to be maintained by China until the completion of the Manchurian Railway, and then Russia is to be consulted as to the strength of the army. No munitions of war are to be imported. || 5. If Russia complains of any official, however high his rank, he shall be cashiered. The strength of the police is to be settled with Russia; they are not to possess artillery, and no foreigners other than Russians are to be employed in it. || 6. No foreigners are to be employed in connection with the sea or land forces in North China. || 7. Abolition of Chinese administration in the

town of Chinchou. || 8. China is not to grant any mining, railway, or other rights without the permission of Russia in the territory upon the Russian border, *i. e.* Manchuria, Mongolia, Ili, Yarkand, &c., and Russia's permission is to be obtained before China builds railways in these provinces. No lease is to be granted to any but Russians outside of Newchwang. || 9. The indemnities of the Powers and the expenses incurred by Russia in Manchuria are to be dealt with on the same footing. || 10. Compensation shall be settled with the Railway Company with regard to the damage done to the Manchurian Railway and suffered by its employés. || 11. The form such compensation may take is the granting of new Concessions or modification of contracts now existing. || 12. Building of a railway line, on the same terms as the Manchurian Railway, from the main or branch line in the direction of Peking up to the Great Wall.

Pressure is being brought by the Russian Legation on Li Hung-chang to obtain his consent. The whole question has evidently been referred to the Court.

Nr. 13042. **CHINA.** — Kaiserliches Edikt über die russische Forderung und Anrufung der europäischen Vermittlung.

February 28. - (Communicated by Chinese Minister, March 1, 1901.)

(Translation.) || Russia promises to deliver up the three eastern provinces (Manchuria). She proposes an Agreement of twelve Articles. We have authorized our Plenipotentiary to amend and modify them, so as to preserve our rights of sovereignty. The foreign Representatives also advise China not to accept them. || But in reflecting upon the present situation, though we are grateful to the advice of foreign Representatives, it is impossible for China alone to incur the displeasure of Russia by remaining firm. This is not only a question for China to study with all possible care, in order that it may be solved without any danger to her, but also a question in which the foreign Governments interested should maintain the balance of power. || We hereby appoint Lu Hai Kwan, Li Shen Doh, Lofêngluh, and Wu Ting Fang to consult confidentially with the respective Foreign Offices, and ask them most earnestly for their conjoint mediation between us and Russia, so that the question may be peacefully solved in a manner which will prove beneficial to all nations concerned. || Respect this.

Nr. 13043. **VEREINIGTE STAATEN.** — Der Staatssekretär des Ausw. an den chinesischen Gesandten in Washington. Warnung vor einem Sonderabkommen.*)

February 19, 1901.

The preservation of the territorial integrity of China having been recognized by all the Powers now engaged in joint negotiation concerning the injuries recently inflicted upon their Ministers and nationals by certain officials and subjects of the Chinese Empire, it is evidently advantageous to China to continue the present international understanding upon this subject. It would be, therefore, unwise and dangerous in the extreme for China to make any arrangement, or to consider any proposition of a private nature, involving the surrender of territory or financial obligations by Convention with any particular Power, and the Government of the United States, aiming solely at the preservation of China from the danger indicated, and the conservation of the largest and most beneficial relations between the Empire and other countries, in accordance with the principles set forth in its Circular note of the 3rd July, 1900 — and in a purley friendly spirit toward the Chinese Empire and all the Powers now interested in the negotiations — desires to express its sense of the impropriety, inexpediency, and even extreme danger to the interests of China, of considering any private territorial or financial arrangements, at least without the full knowledge and approval of all the Powers now engaged in negotiation.

Nr. 13044. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Bemerkungen zu Nr. 12589.

Foreign Office, March 4, 1901.

(Telegraphic.) || Express my thanks to Count Lamsdorff for his permission, to present to Parliament your despatch of the 6th ultimo,**) recording a conversation with his Excellency respecting the reported Russo-Chinese Agreement as to Manchuria. His Majesty's Government will avail themselves of the permission, and will present the despatch to Parliament. || I fear that, though its presentation will somewhat allay, it will not dispel, the apprehensions created by the publication of various

*) Der englischen Regierung am 4. März mitgeteilt. Red.

**) Nr. 12589. Bd. 66. Red.

versions of the Agreement which is now under discussion at St. Petersburgh, according to advices received by His Majesty's Government. || By the terms of these the idea is certainly suggested that much more is involved than a temporary and provisional arrangement having in view the prevention of the recurrence of the recent disturbances, as well as the protection of the railway. || There is no limit assigned for the duration of the Agreement as a whole, and its termination is made to depend, in respect of certain clauses, on the fulfilment of conditions, in complying with which there might be an indefinite delay. || Again, other provisions are of an enduring character on the face of them, and also in some cases inconsistent with the Treaty obligations incurred towards other Powers by China. || The Agreement is also described as containing provisions for the conclusion of a separate arrangement with regard to the indemnity for the destruction of the Trans-Manchurian Railway, which is claimed by Russia. || China should not, in the opinion of His Majesty's Government, enter into any separate arrangement with individual Powers which might be calculated to affect permanently her territorial, political, financial, or commercial status. || In reply to inquiries made by China as to our views, His Majesty's Government have expressed this opinion, and they are glad to find that the intention of making an arrangement of the kind is disclaimed by the Russian Government. || His Majesty's Government trust, however, in view of the persistent reports to which I have referred, that the Russian Government may communicate to them, for their information, the actual text of the Agreement or Agreements.

Nr. 13045. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Berlin. Deutschland wünscht, daß China nur mit dem Konzert der Großmächte unterhandelt.

Foreign Office, March 5, 1901.

(Telegraphic.) || Russian-Manchurian Agreements: my telegram to Sir E. Satow of the 1st instant. || I have learnt from the German Ambassador that his Government have been informed by the American Ambassador at Berlin of the appeal which the Chinese Court have made at Washington, and of their request for advice. || It is the intention of the German Government to reply to the following effect to any such appeal. || The principle that China questions should be settled by the concert of the

Powers, and not directly between Cabinet and Cabinet, has all along obtained the adherence of the German Government. || Consequently, they suggest that the Chinese Government should apply to the Conference of Ministers' at Peking in this matter.

Nr. 13046. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking. China soll nur mit dem Konzert unterhandeln.

Foreign Office, March 5, 1901.

(Telegraphic.) || Russian-Manchurian Agreements: my telegram to Sir F. Lascelles of today repeated to you. || Do what you can to induce the Chinese Government to accept the German suggestion that they should apply to the Conference of Ministers at Peking in this matter.

Nr. 13047. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Übersendet den Text des russischen Vertragsentwurfs.

Peking, March 6, 1901. (March 6).

(Telegraphic.) || I Have obtained Chinese text, which is evidently translated from the Russian. Following is a translation: —

„1. The Emperor of Russia, being anxious to give evidence of his friendly feeling towards China, is willing to forget the hostile acts committed in Manchuria, and to hand back the whole of that country China — its administration to be carried on as heretofore. || „2. Under Article 6 of the Manchurian Railway Agreement, the Administration is authorized to maintain troops for the protection of the line. The country, however, being at present in an unsettled condition, and such troops few in number, a body of soldiers must be retained until order is restored, and until China shall have carried out the provisions of the last four Articles of the present Convention. || „3. In the event of grave disturbances the Russian garrisons will afford China every assistance in suppressing the same that lies in their power. || „4. In the recent attacks against Russia, Chinese troops having taken a prominent part, China agrees, pending the completion of the line and its opening to traffic, not to establish an army in those provinces. She will consult with Russia as to the number of troops she may subsequently wish to establish there. The importation

of munitions of war into Manchuria is prohibited. ‖ „5. With a view to safeguarding the interests of the territory in question, China will, on representations being made by Russia, at once deprive of office any Military Governor or other high official, whose conduct of affairs may prove antagonistic to the maintenance of friendly relations. ‖ „A police force, consisting of mounted and unmounted units, may be organized in the interior of Manchuria. It numbers shall be determined after consultation with Russia, and from its armament artillery shall be excluded. The services of the subjects of any other Power shall not be employed in connection therewith. ‖ „6. In conformity with the undertaking given by China at an earlier date, she will not employ the subjects of any other Power in training Chinese soldiers or sailors in North China.‖ „7. The neighbouring local authorities will, in the interests of peace and order, draw up new special Regulations with reference to the neutral zone (see Agreement of the 27th March, 1898) treated of-in Article 5 of the Agreement relating to the lease of part of the Liaotung Peninsula. ‖ China's autonomous rights in the City of Chinchou, secured to her by Article 4 of the Special Agreement of the 7th May, 1898, are hereby abrogated. ‖ „8. China shall not, without the consent of Russia, grant to any other Power, or the subjects thereof, privileges with regard to mines, railroads or other matters in conterminous (*i. e.*, with Russia) regions, such as Manchuria, Mongolia, and the sections of the new Dominion known as Tarbagati, Ili, Kashgar, Yarkand, and Khoten. Nor shall China, without Russia's consent, construct railroads there herself. ‖ „Except as far as Newchwang is concerned, no leases of land shall be granted to the subjects of any other Power. ‖ „9. China being under obligation to pay Russia's war expenses and the claims of other Powers, arising out of the recent troubles, the amount of the indemnity presented in the name of Russia, the period within which it will have to be paid, and the security therefor will all be arranged in concert with the other Powers. ‖ „10. The compensation to be paid for the destruction of the railway lines, for the robbery of property, belonging to the Railway Administration and its employés, as well as claims for delay in carrying on the construction of the line, will form subject of arrangement between China and the Administration. ‖ „11. The above-mentioned claims may, by agreement with the Administration, either in part or in whole, be commuted for other privileges. The grant of such privileges would involve a complete revision of the previous Agreement. ‖ „12. In conformity with the undertaking previously given by China, it is agreed that a line may be constructed from either the trunk line or the branch

line (of the Manchurian Railway) in the direction of Peking up to the Great Wall, its administration to be governed by the Regulations at present in force."

China's liberty of action is infringed by the prohibition to employ foreigners in Articles 5 and 6. || Article 8 is contrary to possible interests of other Powers, and lays the foundation for future treatment of those districts in the same way as Manchuria. || The railway indemnitys is withdrawn from the purview of the Powers by Article 10.

Nr. 13048. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Soll nähere Auskunft von Lamsdorff über das vorige verlangen.

Foreign Office, March 9, 1901.

(Telegraphic.) || Russian-Manchurian Agreement: || You should communicate the text, as reported by Sir E. Satow in his telegram of 6th instant, to Count Lamsdorff, at the same time pointing out to his Excellency that if this version of the Agreement is approximately accurate it seems impossible to reconcile it with the assurances given by him and reported in your despatch of the 6th ultimo, which has been laid before Parliament; that it is impossible to describe it as a contract of a temporary and provisional nature, and that our Treaty rights are certainly affected by it. || On the other hand, it is sureley reasonable that we should ask his Excellency's help in exposing the trick and putting the saddle on the right horse if, as he suggests, garbled versions of the Agreement are being circulated by the Chinese Government in order to create dissension between the Powers; and you may state that to join the Russian Government in exhibiting in its true light so discreditable a manœuvre would afford the liveliest satisfaction to His Majesty's Government.

Nr. 13049. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Tokio. Unterredung mit dem japanischen Gesandten über Nr. 13047.

Foreign Office, March 19, 1901.

Sir, || The Japanese Minister called here to-day and stated that the following amendments to the Manchurian Agreement had been proposed by Count Lamsdorff to the Chinese Minister at St. Petersburgh: — || Article 4. In view of the fact that China attacked Russia, and for the purpose of insuring the protection and construction of the Manchurian Railway, and to prevent a repetition of disturbances on the Russian

frontier, China shall, after consultation with Russia, determine the number of troops and the places where they are to be stationed in Manchuria. The prohibition of importation into Manchuria of arms and ammunitions to be regulated in accordance with common agreement to be made with the Powers. In the meantime, China shall, of her own accord, prohibit such importation as a temporary measure. || Article 5. In order to secure peace in Manchuria, any Governor-General or high local official who has acted, or may act, improperly in regard to foreign relations shall at once be removed to another post upon a representation made by Russia. China may maintain infantry and cavalry for police purposes, the strength of which is to be determined in consultation with Russia until the complete pacification of Manchuria; but no artillery shall be permitted, and only Chinese shall be employed in those functions. || Article 7. The local authorities in the vicinity of the neutral zone, provided in Article V of the Convention for the lease of territory in Liao-tung, shall make special Regulations to maintain peace and order. || Article 8. China shall not, without previous consultation with Russia, grant to any Power, or its subjects, railway and mining Concessions or any commercial advantages in the whole territory of Manchuria. || Article 10. The indemnities to be paid in compensation for the destruction of the railway an the property of the employés of the Railway Company, and also for the losses for the delay of work, shall be adjusted between China and the Railway Company, in accordance with the principles of assessment to be agreed upon between the foreign Representatives at Peking and to be approved by the Powers. || Article 12. The building of a railway into Manchuria from Shanhaikwan to Newchwang and Sinminting with money borrowed from a private Company during September 1898 is in contravention of the previous Agreement between China and Russia. As compensation for this breach, and in order to speedily restore tranquillity in Manchuria, China shall concede to the Chinese Eastern Railway Company the right to build a railway from the main or branch line of its railway, extending it to the Great Wall on the boundary between Manchuria and the Province of Chihli. || Articles 1, 2, 3, 9, and 11 are maintained as originally drafted, while Article 6 has been entirely eliminated. || The Russian Minister for Foreign Affairs declared to the Chinese Minister that he would withdraw the draft if it were not signed within two weeks from the 13th March. || Baron Hayashi stated that a special Convention such as was being separately negotiated by Russia was held by the Japanese Government to be contrary to the principle of solidarity which at present united the

Powers, and that such a separate Convention would materially lessen the capacity of China to meet her obligations towards the Powers. He was therefore instructed to state that the Japanese Government would be ready to join His Majesty's Government, should they hold the same view, in again advising the Chinese Government not to sign the amended draft of the Convention. || He added that his Government were of opinion that such advice renewed by the two Governments, and possibly also by the German Government, would be very effective. || I told Baron Hayashi that His Majesty's Government would repeat to the Chinese Government the warning already given in regard to separate Agreements with individual Powers, and that they would advise China not to sign the amended draft.

Nr. 13050. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Änderungen an Nr. 13047.

Peking, March 19, 1901. (March 20.)

(Telegraphic.) With reference to my telegram of the 6th instant, the 6th Article of the proposed Russo-Chinese Manchurian Agreement has been omitted. || Article 4. The number of troops and military posts in Manchuria is to be determined with Russia. In accordance with common agreement to be made with the Powers, prohibition of importation of arms and ammunition. Meantime, prohibition to be made by China. || Article 5. Any Governor-General, or other high official, complained of by Russia as having acted in an improper manner in matters which affect foreign policy is to be transferred at once. China may maintain a police force of cavalry and infantry, determining its strength in consultation with Russia. This body is, however, not to have cannon until the pacification of the country, and only Chinese are to be enrolled. || Article 7. The local authorities in the neighbourhood of the neutral zone, provided for by Article V of the Convention relating to the lease of the Peninsula of Liaotung, are to frame a set of special Regulations suitable to the circumstances. || Article 8. Without previous consultation with Russia, China shall not grant to any other Power, or its subjects, railway and mining Concession and commercial advantages throughout Manchuria. || Article 10. The principles agreed upon by the Representatives of the foreign Powers and approved by their Governments shall be used to adjust the indemnities for the destruction of railways, of the Railway Company employés' property, and for losses due to delay of work. || Article 12. It is stated that China has contravened a previous Russo-Chinese

Agreement by constructing a railway line direct into Manchuria, from Shanhaikwan to Newchwang and Sinminting, with money borrowed from a private Company. On the 28th September, 1898, China is to give compensation for this by conceding the right to the East China Railway Company to build an extension line of its main railway to the Great Wall, on the Chihli-Manchurian boundary. || The other Articles, as they were in the original draft, remain unaltered.

Nr. 13051. **GROSSBRITANNIEN.** — Derselbe an Denselben. Dasselbe.

Peking, March 19, 1901. (March 20.)

(Telegraphic.) || With reference to my telegram of the 19th instant, Article No. 12 naturally has reference to the loan which the British and Chinese Corporation negotiated for the construction of the railway. No previous Agreement between Russia and China exists. It is not fair to China nor to His Majesty's Government to force China to sign such an Article as is contemplated || The Russian Government insists on the Convention being signed on the 25th instant, and, if it is not signed, they threaten to break off negotiations. || I am informed confidentially by Li Hung-chang that an extension of ten to twelve days is desired by China to eliminate the Article, as well as one or two other points of an objectionable character, as she fears other Powers „imitating the example set by Russia". || I gather that the text we have obtained is authentic.

Nr. 13052. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking und den Botschafter in Berlin. Warnung an China vor Sonderverträgen.

Foreign Office, March 20, 1901.

(Telegraphic.) || Manchurian Agreement. || I have repeated to the Chinese Minister to-day the warning against entering into separate Agreements with individual Power already given to China. || [Following to Sir F. Lascelles only.] || It would be useful if the German Government were to intimate that they remained of the opinion already expressed by them.

Nr. 13053. **CHINA.** — Dekret der Regierung an den Gesandten in London. Soll England um Hilfe gegen Rußland bitten.

Imperial Decree of March 20. — (*Communicated by Sir Chihchen Lofêngluh, March* 21, 1901.)

(Translation.) || The Manchurian Agreement has now been amended, but the stipulated time within which the Agreement is to be signed will soon expire. || As the Marquess of Lansdowne has advised us to wait for his reply, we have now to command Lofêngluh to ask Lord Lansdowne — || 1. Either to help us out of the difficulty: || 2. Or to ask Russia to extend the time stipulated for siguing the Agreement. || Otherwise, we, being placed in great difficulty, will be unable to oppose Russia any further. || An immediate reply is to be expected. || Respect this.

Nr. 13054. **GROSSBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Besprechung zwischen dem japanischen Gesandten und Graf Lamsdorff.

St. Petersburgh, March 26, 1901. (March 26.)

(Telegraphic.) || I am informed by the Japanese Minister that, at an interview which he had with Count Lamsdorff yesterday, he carried out the instructions of his Government, and told his Excellency what was their opinion as to the danger of concluding at this moment separate Agreements between China and any individual Power. || The Japanese Government, he said, desirous as always to act in cordial relations with the Russian Government, wished to inform his Excellency that their good offices, as well as those of other Governments, had been asked for by China with regard to the draft Manchurian Agreement which Russia was pressing her to sign within a specified period of time. The sovereignty and integrity of China, as well as certain Treaty rights of other Powers, appeared to Japan to be affected by some of the Articles of the Agreement, and they, therefore, desire to make the friendly proposal that the Treaty Powers, acting together in Peking, should be given an opportunity of considering the draft before it was signed. || In reply, Count Lamsdorff said that this Agreement solely concerned two independent States, and must be concluded without the intervention of any other Powers, and he politely but firmly declined any such proposal. His Excellency added, however, that he could give an official assurance to the Japanese Minister that neither the sovereignty nor the integrity of China in Manchuria nor

the Treaty rights of any other Power were affected by the proposed Agreement; that it was of a provisional nature, and a necessary preliminary to the Russian troops evacuating the province. Its early signature was desired by his Excellency in order that the unjust suspicions aroused by false reports with regard to it might be removed by its publication.

Nr. 13055. **CHINA.** — Die Kabinettsminister an den Gesandten in London. Ablehnung des Mandschureivertrags.

Cabinet Ministers in Singan-fu to Sir Chihchen Lofêngluh. — (*Communicated by Sir Chihchen Lofêngluh, March* 29, 1901.)

Shanghae, March 28, 1901.

(Translation.) || (Telegraphic.) || We have followed the advice of Lord Lansdowne, in not giving our authority to sign the Manchurian Agreement. || In your telegrams of the 20th and 23rd instant, you have assured us of the moral support of England if we followed her advice. || Our Plenipotentiaries, Prince Ch'ing and Viceroy Li, report that Russia will now permanently occupy Manchuria, and that the collective negotiations will have to be suspended. The Court feel great anxiety about this matter. || As Manchuria is the cradle of the present dynasty, how could China tolerate a permanent foreign occupation of that region? We now apply for the positive assistance of England in bringing about a satisfactory settlement between China and Russia, in order to avoid a rupture with that Power, which could not fail to be detrimental to the interests of China and the Treaty Powers. || Please lay the contents of this telegram before Lord Lansdowne and request an immediate reply.

Nr. 13056. **GROSSBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Mitteilung des Journal „Officiel" über die Verhandlungen mit China.

St. Petersburgh, April 5, 1901. (April 5.)

(Telegraphic.) || To-day's „Official Messenger" contains long communiqué regarding recent events in China. First part recapitulates course of negatiations between allied Powers and China, which are as yet not concluded. Second part states that the Imperial Government, while awaiting the solution of questions interesting all the Powers, considered it necessary to apply themselves to the task of restoring order in the

provinces adjoining Russian territory, and with this object a *modus vivendi* for the restoration of the local Civil Government in Manchuria was come to between the Russian military authorities and the Chinese. Meanwhile, after careful consideration of circumstances of recent outbreak so harmful to Russian interests, the Imperial Government drafted a separate Agreement with China to regulate the gradual evacuation of Manchuria, and at the same time obviate the recurrence of the events of last year. Unfortunately, mendacious and alarming reports as to the character and scope of this Agreement were circulated in the foreign press. Serious obstacles were raised to China's concluding the Agreement, in consequence of which it became impossible to carry out the proposed measures for gradual evacuation. || As regards the definite restoration of Manchuria to China, it can obviously only take place upon the re-establishment in the Empire of a normal state of things and in Peking of a Central Government independent and sufficiently strong to prevent the recurrence of recent events. While maintaining the present temporary organization in Manchuria with the object of insuring order on the Russian frontier, but remaining absolutely true to their original programme, as repeatedly formulated, the Imperial Government quietly await the further progress of events. || Text follows by post.

Nr. 13057. **GROSSBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Rußland nimmt die Verhandlungen mit China wieder auf.*)

Peking, August 14, 1901. (August 14.)

(Telegraphic.) || Russia, although it is denied by her, is resuming her negotiations with China to bring about the signature of a Manchurian Agreement. This I have from a thoroughly trustworthy source. || The text of the Agreement is that which I telegraphed to your Lordship on the 6th and 19th March. || I am sending copy by next bag.

Nr. 13058. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. China soll den Mächten die russischen Forderungen mitteilen.

Foreign Office, August 16, 1901.

(Telegraphic.) || I have received your telegram of the 14th instant. || You should inform the Chinese Government or Viceroys, if they ask for

*) Vgl. Bl. 66 S. 180. Red.

our advice with regard to the new Manchurian Agreement, that the proper course for the Chinese Government to pursue will be to call the attention of the Powers to the matter and to communicate the text of the provisions in question, should they prove inconsistent with the Treaty obligations of China to other Powers, or with the integrity of the Chinese Empire. || In that event, we shall be ready to advise whether an infraction of our Treaty rights is involved, or whether the provisions are objectionable in any other way.

Nr. 13059. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Übersendet den russischen Entwurf über die Mandschurei und die mehrfachen Änderungen daran.

Peking, August 21, 1901. (October 14.)

(Extract.) || With reference to my telegram of the 14th instant, I am reliably informed that as soon as the Final Protocol is signed, the Russian negotiations with regard to Manchuria will be resumed either here or at St. Petersburgh. A copy of the Chinese version of the latest form of the Convention which it is proposed to conclude was communicated to me recently, and I have had it collated with the original terms, and also with the alterations introduced about March last, for convenience of reference. I have the honour to inclose herewith, for your Lordship's information, copy of the document in which this is done. The first column contains a new translation of the original terms proposed by the Russian Minister, the second shows the alterations made up to March last, and the third gives the latest wording.

Anlage.

Convention relating to the Retrocession of Manchuria by Russia.

Original Terms proposed by the Russian Minister.	*First Alterations, March* 1901.	*Alterations in August Draft.*
Article I.	Article I.	Article I.
The Emperor of Russia being desirous of manifesting his friendship for China, ignores the outbreak of hostilities in	Same.	Same.

Manchuria, and agrees to restore the whole of that country to China, to be administered in all respects as of old.

Article II.

By the 6th Article of the Manchurian Railway Agreement the Railway Company was authorized to guard the line with troops. The country being at present in disorder, the number of those troops is insufficient for the purpose, and a *corps* must be retained until order is restored, and China has executed the last four Articles of the present Convention.

Article II.

Same.

Article II.

Same.

Article III.

In case of emergency the troops retained in Manchuria shall render every possible assistance to China in preserving order.

Article III.

Same.

Article III.

Same.

Article IV.

Chinese troops having been the greatest aggressors in the recent attacks on Russia, China agrees not to organize an army until the railway is completed and opened

Article IV.

Chinese troops having been the greatest aggressors in the recent attacks on Russia, China shall, with a view to the protection of the Manchurian Railway works and ser-

Article IV.

With a view to the protection of the Manchurian Railway and the Railway services, and in order to prevent disorder on the Russian frontier, China shall con-

to traffic. When military forces are organized eventually, their numbers shall be fixed in consultation with Russia. The importation of arms and munitions of war into Manchuria is prohibited.

vices, and in order to prevent disorder on the Russian frontier, consult with Russia in fixing the number of troops in Manchuria and their stations. The importation of arms and munitions of war into Manchuria shall be regulated in accordance with the Agreement with the Powers; for the present China shall herself prohibit such importation.

sult with Russia in fixing the number of troops in Manchuria and their stations. The importation of arms and munitions of war into Manchuria shall be regulated in accordance with the Agreement with the Powers; for the present China shall herself prohibit such importation.

Article V.

As a measure for the preservation of Manchuria China shall dismiss from office, all Generals-in-chief (Tartar Generals) and high officials whose actions conflict with friendly relations, and who are denounced for that reason by Russia. China may organize mounted and foot police in the interior of Manchuria, but their numbers shall be fixed in consultation with Russia. Cannon shall be excluded from their armament, and no subjects of another Power shall be employed in the execution of the functions.

Article V.

As a measure for the preservation of the country, China shall remove from Manchuria all Generals-in-chief (Tartar Generals) and high officials whose actions conflict with friendly relations, and who are denounced for that reason by Russia. China may organize infantry and cavalry forces in the interior of Manchuria for police purposes, but their numbers shall be fixed in consultation with Russia. Until peace is completely restored, cannon shall be excluded from their armament, and only Chinese shall be employed in the

Article V.

As a measure for the preservation of the country, China shall remove from Manchuria all Generals-in-chief (Tartar Generals) and high officials whose actions conflict with friendly relations and who are denounced for that reason by Russia. The numbers of mounted and foot police organized in the interior of Manchuria shall be fixed in consultation with Russia. Until peace is completely restored, cannon shall be excluded from their armament, and only Chinese shall be employed in the execution of the functions.

	execution of the functions.	
Article VI.	Article VI.	Article VI.
In accordance with the understanding formerly accepted by China, no subject of another Power shall be employed to train naval or military forces in the Northern provinces.	Expunged.	Expunged.
Article VII.	Article VII.	Article VII.
The local authorities nearest to the neutral zone referred to in Article V of the Liatong Agreement (Lease Agreement), shall make special regulations for the preservation of order in the zone. ‖ The administrative autonomy of Chinchou be abolished.	Same. This last sentence expunged.	Same. Last sentence expunged.
Article VIII.	Article VIII.	Article VIII.
Without the consent of Russia, China shall not concede mining, railway, or other privileges to another Power, or the subjects of another Power, in the countries adjoining Russia, that is to say, in Manchuria, Mongolia, Tarbagatai, Ili, Kashgar, Yarkand, Khoten, &c. China shall not herself construct a rail-	Without a previous understanding with Russia, China shall not permit another Power or the subject of another Power to build a railway, open a mine, or enjoy any privilege connected with trade, in any part of Manchuria.	Without a previous understanding with Russia, China shall not permit another Power or the subject of another Power to build a railway, open a mine, or enjoy any privilege connected with works or trade, in any part of Manchuria.

way in those countries without Russia's consent. Outside of Newchwang land shall not be leased to the subjects of another Power.

Article IX.	Article IX.	Article IX.
China is under an obligation to pay Russia's war expenses and indemnities to the Powers. The amount of indemnity due to Russia, the dates of payment, and the security, shall be arranged conjointly with the Power.	Same.	Same.
Article X.	Article X.	Article X.
The amounts due for damage done to the Railway, for the property of the Company's employés which was stolen, and for losses caused by delay of the works, shall be arranged by the Company with China.	China agrees that the amounts due for damage done to the Railway, for the property of the Company's employés which was stolen and for losses caused by delay of the works, shall be arranged with the Company in accordance with the views regarding the fixing of indemnities which are adopted by the foreign Representatives at Peking and approved by the Powers.	Same as (original Article).
Article XI.	Article XI.	Article XI.
An understanding may be come to with the	Same.	Same.

Railway Company to set off the whole or part of the above indemnities against privileges of other kinds. This may be arranged by an alteration of the existing Railway Agreement, or by the concession of further privileges.

Article XII.

China shall, as previously agreed, grant a concession for the construction of a railway from the Manchurian main line, or a branch line, to the Great Wall in the direction of Peking.

Article XII.

On the 28th September, 1898, China contracted a loan from a private Company to build the Shanhaikwan-New-chwang-Hsinmintien, &c., Railway directly to Manchuria, in contravention of an Agreement concluded by China with Russia. In compensation for this, and with a view to the rapid restoration of peace to Manchuria, China consents to the Manchurian Railway Company building a railway from the main or a branch line to the Great Wall at a place on the frontier between Chihli and Manchuria. This work shall be executed in accordance with the terms of the existing Manchurian Railway Agreement.

Article XII.

On the 28th September, 1898, China contracted a loan from a private Company to build the Shanhaikwan-New-chwang-Hsinmintien,&c., Railway directly to Manchuria, in contravention of an Agreement concluded by China with Russia. With a view to a mutual compensation [*sic*] for this, and to the restoration of peace to Manchuria, China consents to the Manchurian Railway Company building a railway from the main or a branch line to the Great Wall at a place on the frontier between Chihli and Manchuria. This work shall be executed in accordance with the terms of the existing Manchurian Railway Agreement.

Nr. 13060. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Geschichte der Besetzung Niutschwangs durch die Russen während der letzten 13 Monate auf Grund der Konsularberichte.

Peking, 7. September 1901. (28. Oktober.)

On the 4th February, 1900, Mr. Hosie, then officiating Consul at Newchwang, reported that it was stated among Russians that the Russians intended to occupy the port before May. || On the 14th February, 1900, Mr. Hosie reported that branches of the Russo-Chinese Bank had been established at Kirin, Harbin, and K'uan Cheng-tzu, primarily with the object of financing the Russian Railway there, but, in addition, for the transaction of banking business of every description. He stated at the same time that merchants and traders had established themselves in business along the line, especially at Harbin, apparently without any objections being raised by the Chinese authorities to the residence of these traders in the interior of Manchuria. He called attention to the Agreement between the Chinese Government and the Russo-Chinese Bank for the construction of the Manchurian Railway, which empowered the „Chinese Eastern Railway Company", subject to the sanction of the Chinese Government, to exploit in connection with the railway, or independently of it, coal mines, as also to exploit in China other enterprises — mining, industrial, and commercial. || On the 13th August, 1900, Mr Consul Fulford reported that, as a result of an attack upon the foreign quarter by a mob, the Russians had bombarded and taken the native city on the 4th August. Russian gun-boats, the „Otvajny" and „Gremiastchy", were already anchored off the Bund in June and July. Two small Japanese gunboats, the „Chin Chui" and „Chin-pen", were in the harbour. In response to appeals from Mr. Fulford and the British community at Newchwang, His Majesty's ship „Pigmy" arrived on the 9th August and stayed a few days, returning on the 26th August, and leaving again on the 4th September. From Mr. Fulford's account of the proceedings leading up to the bombardment of the town by the Russians, the following very brief summary is taken: — || On the 26th July 400 or 500 Russian troops under Colonel Mischenkoff, mostly infantry, a few cavalry, and two field-pieces, proceeded from their quarters at the Russian Military Station to the south of the mud-wall surrounding Newchwang, nominally to make a reconnaissance, under the idea that a body of Chinese might be preparing an attack. The Russians captured the barracks of the few Chinese troops stationed there, who retreated to

the town, and a brisk fire was exchanged, the Chinese apparently using rifles only, the Russians making use of their field-pieces freely. There was no doubt that the Chinese Taotai had behaved well, and had kept order in the town, but now that the Chinese troops had been attacked, it was feared that they might retaliate by an attack upon the foreign quarter. With the concurrence of the Consular Body, a few Russian soldiers were sent on the 6th July to the Settlement. On the 30th July, in consequence of a rumour that a Russian had been captured by the Chinese and held prisoner in the native city, the Russian Consul informed the Taotai that if anything happened to the man the city would be bombarded. The rumour appears to have been unfounded. Russian reinforcements arrived on the 27th July. || During all this time of excitement the Taotai exerted himself to maintain order in spite of instructions from the Moukden Government to take steps against the foreigners. Taking advantage, however, of a mob attack on one of the barricades in the foreign Settlement on the 4th August, which was easly beaten off, the Russian forces advanced on the town; the Russian gun-boat „Gremiastchy" steamed down to the mouth of the river; a fire was opened on the city by both gun-boats. The Chinese Taotai fled and the Russian flag was hoisted the same evening, the 4th August, on the Imperial Maritime Customs building. The Assistant in charge of the Customs protested, and Mr. Fulford supported the protest on the ground that the Customs property was registered in the name of Sir Robert Hart, a British subject. The Treaty Power Consuls also wrote to the Russian Consul for an explanation. Admiral Alexeieff, Russian Commander-in-chief of Naval and Military Forces in the Far East, who arrived on the 5th August from Port Arthur, replied, explaining the action of the Russian authorities. He stated that the temporary administration which was to be established in the interests of the Russians, as well as of the foreigners and Chinese, would „not infringe the rights and privileges which they had previously enjoyed in Newchwang (Yingkow)." || He added that the sole object of the Provisional Russian Administration was to maintain peace and order and to restore trade. || Admiral Alexeieff wrote to Mr. Fulford on the 9th August that M. Ostroverkhov had been instrusted with the temporary administration of the city with the title of Civil Administrator. M. Kristy was to carry on the work of the Russian Consulate. He inclosed copy of the Regulations for the Russian Administration of Newchwang. || Article 2 of these Regulations states that the Civil Administrator is assisted by a Council with consultative powers which will be called together in case of need, as follows: Commander of

the Place, representative of the Consular Body, representative of the foreign merchants, representative of the Chinese Guilds, Commissioner of Customs, and Sanitary Inspector. || Article 3 gives the Civil Administrator the right to issue bye-laws, impose poll taxes and duties on the natives; dispose of the real and movable estates belonging to the Chinese Government; confirm the expenditure of funds assigned or received for maintaining the Administration and for the municipal expenses, and enter into relations with the foreign representatives. || Article 6 provided that the „Chinese Maritime Customs coming under the supervision of the Imperial Russian Government will maintain its previous organization. The rights of the staff as regards their service and salary remain without change. As in the meantime the Russian Government is responsible for the Customs revenue, it will be represented in the Customs service by appointing a co-Commissioner, whose rights will be regulated by special orders. In the Maritime Customs is established a special Chinese Department, to collect duties from the Chinese junks and merchandise, which income does not go to the general Customs revenue, but is to be held at the disposal of the Civil Administration". || The Yingkow terminus of the Shanhaikwan Railway was seized by the Russian force on the 6th October, and the Russian flag hoisted over the buildings. In reply to a query from Mr. Fulford as to the reason for this action, and the intentions of the Russian authorities as to the line and the railway property, M. Ostroverkhov, the Civil Administrator, replied on the 9th October that the terminus was occupied under instructions received from the high Russian military authorities, and that he presumed this order was given in connection with the general plan adopted for preventing the destruction of this railway by the rebels. M. Ostroverkhov added that „as to the material stored on the north bank of the river, strict orders had been given to guard the same intact until the settlement of the whole question". On the 13th September, M. Ostroverkhov invited the foreign Consuls, consisting of the British, Japanese, and Russian Consuls, and the Vice-Consul for the United States (in charge of German and Swedish and Norwegian interests), to inform him who was their Representative on the Council, in accordance with Article 2 of the Regulations for the Provisional Civil Administration of Newchwang. The reply of the Japane Consul (the senior Consul) of the 14th September stated that the Consuls had not elected a Representative, pending receipt of instructions from their respective Governments on the matter. In a further letter from the Consuls to the Russian Civil Administrator of the 19th September, it is stated that the Consuls were ready, while awaiting instructions from their

Governments, to give their opinion or advice on any matter on which they might be consulted by M. Ostroverkhov. || From this time the Government of the Treaty port remained in the hands of the Russian Civil Administrator. || On the 31st January an „additional Agreement" was concluded at Port Arthur between the Russian Commander-in-chief and the Chinese Military Governor, of which Articles Nos. 1 and 2 ran as follows: — || „Article 1. All official residences in Mukden to be handed back to the Chinese officials, who will act in accordance with the terms arranged. || „Article 2. Chinese official to be allowed to go to their posts in all those towns taken by the Russians. They may establish police forces in large places to the number of 500 men, in medium-sized places to the number of 300 men, in others 200. These police may carry arms, but must be provided with distinguishing badges stamped by the Russian and Chinese authorities." || On the 4th April Mr. Consul Fulford reported that the Manchu Governor-General of Mukden, Tseng-Chi, was again in exercise of authority in the province to a certain extent. Magistrates had returned to the towns occupied by the Russians, and had in some places been allowed to organize police forces, while at others the Russian police were still at work. The restoration of Chinese jurisdiction was apparently being gradually permitted. || To the Treaty port, however, no Chinese officials had returned. || Concerning the customs dues, it was arranged by the Agreement of the 31st January between Russia and China (see above) in Article 4, that the Yingkow customs duties and *li-kin* are to be collected temporarily by Russia, and the Imperial commands awaited as to application of such funds after a Treaty has been made between Russia and China. All other sources of revenue are to be under the control of the Military Governor, Mr. Fulford, in his despatch of the 4th April, reported that the Russians had a large staff at the west end of the town, for dealing with the junk trade. The Russians had, however, permitted the Governor-General to send two deputies to supervise the salt *li-kin* of the sea-coast salt distilleries near Yingkow. || As regards the general question of Imperial Maritime Customs at Newchwang, an arrangement had been concluded between Admiral Alexeieff and Mr. Bredon, Deputy Inspector-General of Customs, and approved by Sir Robert Hart. || Soon after the occupation of Newchwang, the Russians appointed Dr. Daly, the British doctor of the port, to be Sanitary Inspector, and Mr. Dunn, a British subject and engineer on the Chinese Railway, to be his assistent. The expenses of the Department were met by levies on the Guilds of the town. || Dr. Daly has, during the last year, taken a prominent part in all discussions of a municipal nature. It soon became apparent that the

system of voluntary subscriptions was no longer adequate, and a scheme of municipal administration was proposed at a meeting of subscribers on the 7th March, by which expenses were to be met by a tax of one per mille on trade, and taxation of foreign house rents and land. || The Representatives of Treaty Powers at Peking were to be asked for sanction as regards foreigners and the Russian Administration for sanction as regards Chinese. The Consular Body (with the exception of the Russian) opposed the scheme which provided that the Russian Civil Administrator should be Chairman of the Committee of Management, Dr. Daly being the chief advocate. || At an adjourned meeting Resolutions were passed in favour of the scheme, the question of Chairmanship being omitted. The Committee, consisting of Mr. H. A. Bush (of Bush Brothers, agents for Messrs. Jardine, Matheson, and Co.); Mr. F. C. McCallum (agent of the Russo-Chinese Bank); and Mr. C. McCaslin (agent of the American Trading Company), addressed a letter to the doyen of the Diplomatic Corps at Peking on the 18th March last, asking for the approval of the foreign Ministers for working out the scheme in detail, upon the basis of the Land Regulations existing in other Treaty ports. The Resolutions passed at the meeting of foreign residents and inclosed in a letter to the doyen were as follows: — || 1. That there is urgent need for municipal work in the foreign Settlement, the questions of bunding, good main roads, foot-paths, dust, drainage, and water supply being of great importance to the welfare and comfort of the community. || 2. That the present system of Committee is inadequate to the size and needs of the port, the Committee having neither funds nor powers sufficient for the work which, moreover, no one is willing to undertake. || 3. That the growth of trade and the increase in number of foreign residents during the past few years render it possible and necessary that some scheme should be devised for the regular taxation of trade, and of property-owners and householders, whereby funds may be derived. || 4. That, therefore, the Road Fund be now wound up, and the balance in hand and the archives of the funds be placed in the hands of the senior Consul. || 5. That the senior Consul, in consultation with his colleagues, be requested to move his and their Ministers to consent to a tax of one per mille being put on all imports and exports dealt with by his and their nationals. || 6. That the Provisional Government be requested to proclaim a like tax upon all imports and exports dealt with by Chinese, such tax to be collected by the Commissioners of Foreign and Native Customs on steamers and junks respectively, the fund bearing its own cost by collection. || 7. That the Consular Body be also requested to move the Ministers to consent to the taxation

of foreign property-owners and householders for municipal purposes. || 8. That the funds derived from the above sources be devoted entirely to municipal improvements. || 9. That the funds be administered by a Municipal or Town Council, consisting of three foreign and three Chinese gentlemen, appointed by the foreign and Chinese Committees respectively. || 10. That a copy of these Resolutions be sent to the senior Consul and the Civil Administrator. || In commenting upon these Resolutions, Mr. Fulford greatly doubted whether the Russian Administration would consent to hand over the Municipal Government of the town to a Committee composed as stated in Resolution No. 9. He explained the action of the foreign residents as a desire to obtain municipal improvement in any form, in which he himself expressed no concurrence. || A further move was made by the British community at Newchwang in June last. A letter, signed by Messrs. Bush, Messrs. Butterfield and Swire, and Mr. E. H. Rigby, Resident Engineer of the Chinese Railway, and M. Van Eos, was addressed to Sir E. Satow, advocating the termination of the Russian occupation of the Treaty port. || In commenting upon this letter, Mr. Fulford stated that the Russians having handed over the government of all the other towns to the Chinese, the question of how long they are to retain control of Yingkow becomes a pressing one. || A further despatch from Mr. Fulford reported that recent actions of the Russians tended to confirm the opinion, previously expressed by him, that the Russians intended to retain the administration of the port as long as possible. The „actions" to which he alluded were a Proclamation in Chinese by the Russian Civil Administrator, informing the inhabitants of Yingkow that the annual expenditure on the port was to be defrayed by the shops, opium divans, boats, grain shops, and by subscription levied on carts and for bridges. || This was estimated to produce some 88 000 dollars. Extensive quarters for the Russian troops were being built adjacent to the Yingkow terminus of the Chinese Shanhaikwan—Newchwang Railway, the houses being constructed of railway sleepers which had been cut about and rendered useless for their original purpose. || Meanwhile the Manchu Governor-General of Moukden was encouraged to borrow largely from the Russo-Chinese Bank to pay the current expenses of his administration, police, &c. || In his most recent accounts of the lawlessness of the province, Mr. Consul Hosie states that the force at the present disposal of the Tartar General of the whole province is limited by the Russian authorities to 6500 men, which means that over 10 000 men possessing fire-arms have been let loose. The Chinese police force is insufficient to back the authority of the Governor-General, and constant military expeditions by the Russians

are consequently rendered necessary. || The present condition of affairs is, as will have been seen from the above records, that the Russians have now been for more than a twelvemonth in practically undisputed possession of the Treaty port. Their action with regard to the administration of the port, taxation, &c., have been described. The outward signs of Russian rule are every-where apparent. The Russian national flag flies over the forts and public buildings, the Russian Customs flag is hoisted on the Imperial Maritime Customs buildings and boats, and the Native Customs are administered by the Russians, assisted by a staff lent to them by Sir Robert Hart. || The Treaty port itself is now differentially treated to the rest of the Province of Manchuria. If the Russians considered the condition of the province sufficiently secure to permit the return of Chinese officials to their former duties, in accordance with Article 2 of the Additional Agreement of the 31st January (quoted above), is it not a matter for surprise that the Treaty port should alone be retained in the possession of their authorities? Particularly so in the light of the assurance given by Count Lamsdorff to Sir C. Scott on the 6th February last, „that the province would be restored to China when all the temporary measures taken by the Russian military authorities would cease, and everything at Newchwang and elsewhere replaced in its former position". || The bulk of the direct trade of Newchwang is claimed by Japan, the United States, and Hong Kong, the first-named taking the premier place. Of the shipping in 1900, Japan had 320 vessels with a tonnage of 261 652 tons; Great Britain, 253 vessels with 242 757 tons. The United States' Government are now (September 1901) represented by a full Consul, Mr. Miller, at Newchwang. || I have confined this Memorandum to the Treaty port of Newchwang alone, without reference to the Russian projects for a Convention with China respecting the Province of Manchuria.

(Verfasser Reginald Tower.)

Nr. 13061. **GROSSBRITANNIEN** — Der Minister des Ausw. an den Gesandten in Peking. China soll die Initiative ergreifen, um wieder in Besitz der Zölle von Niutschwang zu kommen.

Foreign Office, November 5, 1901.

(Telegraphic.) || I have received your despatch of the 7th September, and I agree that it is desirable that the Maritime and Native Customs revenues at Newchwang should now be restored to China with a view to their being applied, in accordance with the provisions of the Protocol, to

the service of the indemnity bonds. || It is, however, by China that the initiative in the matter should be taken. The Chinese Plenipotentiaries might make the application to the Conference as a sequel to the joint negotiations which have recently taken place. || If this course were taken, the opportunity of supporting the application would be afforded to us and the other Powers.

Nr. 13062. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. China wird nicht die Initiative ergreifen bei Abwesenheit des Prinzen Tsching.

Peking, November 27, 1901. (November 27.)

(Telegraphic.) || With reference to your Lordship's telegram of the 26th*) instant, it has been impossible to hope that the Chinese Government would take any initiative during the absence of Prince Ching. || When the Russian Minister on the 8th instant alluded to the question of the retention of a British man-of-war at Newchwang during the winter, his attention was drawn by Mr. Tower to the anomalous condition of the Russian control of the Customs at that port. M. Lessar replied that it was his desire that normal conditions should be restored, and that, if the Inspector-General of Customs requested him to do so, he would use his best efforts to bring about the restitution of that administration to the Chinese. Mr. Tower saw Sir Robert Hart privately on the subject, and was assured by the latter that he intended to take an early opportunity of urging the Chinese Government to demand from the Russian Minister the restoration of the customs revenues, so that they might be devoted to the service of the indemnity bonds in terms of the Final Protocol.

Nr. 13063. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking. Wie steht es mit der Auslieferung der Zölle in Niutschwang?

Foreign Office, January 17, 1902.

(Telegraphic.) || Newchwang Customs. || Report what action has been taken respecting restoration to Chinese Government of Newchwang Customs.

---

*) Darin hatte Lansdowne angefragt, ob er die Instruktion von Nr. 13061 ausgeführt habe. Red.

Nr. 13064. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Man darf China nicht drängen.

Peking, January 20, 1902. (January 20.)

(Telegraphic.) || Your Lordship's telegram of the 17th instant. || It is thought better in the Chinese interests not to press the question of claiming the Newchwang revenue while the Manchurian Convention negotiation is still pending. I understand that nothing has been done in the matter.

Nr. 13065. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking. Die chinesische Regierung soll die Rückgabe der Zölle fordern.

Foreign Office, January 20, 1902.

(Telegraphic.) || Newchwang Customs. || I have received your telegram of the 20th instant. || I think Chinese Government should be urged to put forward demand for restitution of Customs, unless you see strong reasons to the contrary. See statement by Russian Minister in your telegram of the 27th November.

Nr. 13066. **RUSSLAND und FRANKREICH.** — Erklärung über ihre ostasiatische Politik.

(*Memorandum communicated by the Russian Chargé d'Affaires, March* 19, 1902.)

Les Gouvernements alliés de Russie et de France ayant reçu communication de la Convention Anglo-Japonaise du 30 Janvier, 1902,*) conclue dans le but d'assurer le *statu quo* et la paix générale en Extrême-Orient, et de maintenir l'indépendance de la Chine et de la Corée, qui doivent rester ouvertes au commerce et à l'industrie de toutes les nations, ont été pleinement satisfaits d'y trouver l'affirmation des principes essentiels qu'ils ont eux-mêmes, à plusieurs reprises, déclaré constituer et qui demeurent la base de leur politique. || Les deux Gouvernements estiment que le respect de ces principes est en même temps une garantie pour leurs intérêts spéciaux en Extrême-Orient. Toutefois, obligés d'envisager, eux aussi, le cas où, soit l'action agressive de tierces Puissances, soit de nouveaux troubles en Chine, mettant en question l'intégrité et le libre

*) Nr. 12666. Bd. 67 S. 3. Red.

développement de cette Puissance, deviendraient une menace pour leurs propres intérêts, les deux Gouvernements alliés se réservent d'aviser éventuellement aux moyens d'en assurer la sauvegarde.

Saint- Pétersbourg, le 3 (16) Mars, 1902.

Nr. 13067. **RUSSLAND.** — Mitteilung des Regierungsboten über die Verhandlungen mit China.

April 12, 1902.

(Translation.) || Government Communication. || The grave internal disorders which suddenly broke out over the whole of China in the year 1900, exposing the Imperial Mission and Russian subjects to danger obliged Russia to take decided measures to protect her Imperial interests. With this object in view, the Imperial Government, as is already known, dispatched a considerable military force to Peking which had been abandoned by the Emperor and the Government authorities, and introduced a Russian army into the frontier State of Manchuria, to which the disorders in the Province of Pechili had quickly spread, and were manifested by an attack upon the Russian frontier by the native Chiefs and army accompanied by a formal declaration of war on Russia by the local Chinese authorities. || Nevertheless, the Imperial Government informed the Government of the Emperor that Russia, in undertaking these measures, had no hostile intentions towards China, whose independence and integrity were the foundation of Russian policy in the Far East. || True to these principles, Russia, as soon as the danger threatening the Imperial Mission and Russian subjects was over, withdrew her forces from Pechili before any of the other Powers, and, at the first indication of peace in Manchuria being restored, declared her readiness to determine in a private Agreement with China, the manner and earliest date of her evacuation of that province, with, however, certain guarantees of a temporary nature, which were rendered necessary by the disorderly condition of affairs in the above-mentioned province. || The conclusion of this Agreement dragged over many months, owing to the difficult position in which the high Chinese dignitaries were placed, being unable, in the absence of the Court, to decide upon action, as becomes the Representatives of a perfectly independent Empire. || Latterly, however, the pacification of China has progressed with notable success. After the signature of the Protocol of the 25th August (7th September), 1901, the Imperial Court returned to Peking; the central lawful authority resumed its rights, and in many parts of the Empire the local Administrations were re-established. At

the first reception of the Corps Diplomatique in Peking, the Chinese Empress expressed to the foreign Representatives her gratitude for their co-operation in suppressing the disturbances, and assured them of her unshakable determination to take every measure for the re-establishment in the country of the normal state of affairs existing before the disturbances arose. || This, indeed, solved the problem in which Russia was principally interested when the disorders broke out in the neighbouring Empire. The Imperial Government, pursuing no selfish aims, insisted that other Powers also should not violate the independence and integrity of China; and that the lawful Government, with which Russia had concluded various Agreements, should be reinstated, and thus, when the disorders were over, the friendly relations with China, which had existed from time immemorial, should be continued. || Taking into consideration that this was the only object with which Russian troops were sent into the Celestial Empire, and that China has given written guarantees for the maintenance of order in the country, and repaid Russia the material expenses to which she was put by her military operations in China, the Imperial Government henceforth see no necessity for leaving armed forces within the confines of the neighbouring territory. Therefore, by Imperial will, on the 26th March was signed by the Russian Minister at Peking, M. Lessar, and by the Chinese Plenipotentiaries, the following Agreement as to the conditions of the recall of the Russian forces from Manchuria.

Nr. 13068. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Unterredung mit dem russischen Botschafter über den Mandschureivertrag.

Foreign Office, April 30, 1902.

Sir, || the Russian Ambassador spoke to me briefly to-day upon the subject of the recently signed Agreement between Russia and China in regard to the evacuation of Manchuria. || He told me that the Russian Government were being attacked for having, as was alleged, surrendered to diplomatic pressure from this country. This charge was, of course, a most unreasonable one. The Russian Government had, in fact, remained faithful to the promises which had been made on its behalf at the outset as to the manner in which the Manchurian question would be dealt with. || I told M. de Staal that it was generally recognized that the new Agreement was in many respects an improvement upon the earlier versions which had obtained publicity, but that there were several points which

were a good deal criticised in this country, notably those provisions which limited the right of China to dispose of her military forces and to construct railway extensions within her own territory. || I did not, however, desire to examine these provisions too microscopically, and I shared his hope that the Agreement would be loyally and considerately interpreted on both sides, and that the evacuation of the province would be completed within the appointed time. || I felt sure that it would be no slight relief to the Russian Government to withdraw the large army of occupation, amounting, I understood, to 50000 men, which was now stationed in Manchuria. Lansdowne.

Nr. 13069. **RUSSLAND und CHINA.** — Abkommen über die Mandschurei.*)

Peking, April 8, 1902

Sa Majesté l'Empereur et Autocrate de Toutes les Russies et Sa Majesté l'Empereur de Chine, dans le but de rétablir et de consolider les relations de bon voisinage rompues par le soulèvement qui a eu lieu en 1900 dans le Céleste Empire, ont nommé pour leurs Plénipotentiaires, a l'effet d'établir un accord sur certaines questions concernant la Mandchourie: || Les susdits Plénipotentiaires, munis de pleins pouvoirs, qui ont été trouvés suffisants, sont convenus des stipulations suivantes: —

Article I.

Sa Majesté Impériale l'Empereur de Toutes les Russies, désireux de donner une nouvelle preuve de son amour de la paix et de ses sentiments d'amitié envers Sa Majesté l'Empereur de Chine, malgré que ce soit de différents points de la Mandchourie situés sur la frontière que les premières attaques contre la population paisible Russe aient été faites, consent au rétablissement de l'autorité du Gouvernement Chinois dans la province précitée, qui reste une partie intégrale de l'Empire de Chine et restitue au Gouvernement Chinois le droit d'y exercer les pouvoirs gouvernementaux et administratifs comme avant son occupation par les troupes Russes.

Article II.

En prenant possession des pouvoirs gouvernementaux et administratifs de la Mandchourie le Gouvernement Chinois confirme, aussi bien par

*) Von diesem Vertrage schickte der englische Botschafter in Petersburg zuerst eine englische Übersetzung nach London (13. April), am 28. April den französischen Text. Red.

rapport aux termes que par rapport à tous les autres Articles, l'engagement d'observer strictement les stipulations du contract conclu avec la Banque Russo-Chinoise le 27 Août, 1896, et assume, conformément à l'Article 5 du dit contract, l'obligation de protéger par tous les moyens le chemin de fer et son personnel, et s'oblige également de sauvegarder la sécurité en Mandchourie de tous les sujets Russes en général qui s'y trouvent et des enterprises fondées par eux. || Le Gouvernement Russe, en vue de cette obligation assumée par le Gouvernement de Sa Majesté l'Empereur de Chine, consent de son côté dans le cas où il n'y aura pas de troubles, et si la manière d'agir des autres Puissances n'y mettra pas obstacle, à retirer graduellement toutes ses troupes de la Mandchourie de manière à — || (*a.*) Évacuer dans le courant de six mois après la signature de la Convention les troupes Russes de la partie sud-ouest de la Province de Moukden jusqu'au fleuve Liao-he, en remettant les chemins de fer à la Chine; || (*b.*) Évacuer dans le courant des six mois suivants les troupes Impériales Russes de la partie restante de la Province de Moukden et de la Province de Kirin; et || (*c.*) Retirer dans le courant des six mois suivants le reste des troupes Impériales Russes qui se trouvent dans la Province de Hei-Lung-Kiang.

Article III.

En vue de la nécessité de conjurer à l'avenir la répétition des troubles de 1900 dans lesquels les troupes Chinoises cantonnées dans les provinces limitrophes à la Russie ont pris part, le Gouvernement Russe et le Gouvernement Chinois se chargeront d'ordonner aux autorités militaires Russes et aux dzian-dziuns de s'entendre en vue de fixer le nombre et de déterminer les lieux de cantonnement des troupes Chinoises en Mandchourie tant que les troupes Russes n'auront pas été retirées; le Gouvernement Chinois s'engage en outre à ne pas former d'autres troupes en sus du nombre déterminé de cette manière par les autorités militaires Russes et les dzian-dziuns, et lequel doit être suffisant pour exterminer les brigands et pacifier le pays. || Après l'évacuation complète des troupes Russes le Gouvernement Chinois aura le droit de procéder à l'examen du nombre des troupes se trouvant en Mandchourie et sujettes à être augmentées, ou diminuées, en informant à temps le Gouvernement Impérial; car il va de soi que le maintien de troupes dans la province précitée en nombre superflu mènerait inévitablement à l'augmentation des forces militaires Russes dans les districts voisins et provoquerait ainsi un accroissement de dépenses militaires au grand désavantage des deux États. || Pour le service de police et le maintien de l'ordre intérieur dans cette région, en dehors du territoire cédé à la Société du Chemin de Fer

Chinois de l'Est, il sera formé auprès des Gouverneurs — dzian-dziuns — locaux une gendarmerie Chinoise à pied et à cheval composée exclusivement de sujets de Sa Majesté l'Empereur de Chine.

Article IV.

Le Gouvernement Russe consent à restituer à leurs propriétaires les lignes ferrées de Shanghaikwan—Yinkow—Sinminting, occupées et protégées par les troupes Russes depuis la fin du mois de Septembre 1900. En vue de cela le Gouvernement de Sa Majesté l'Empereur de Chine s'engage: — || 1. Que dans le cas où il serait nécessaire d'assurer la sécurité des lignes ferrées précitées, le Gouvernement Chinois s'en chargera lui-même et n'invitera aucune autre Puissance à entreprendre ou à participer à la défense, construction, ou exploitation de ces lignes, et ne permettra pas aux Puissances étrangères d'occuper le territoire restitué par la Russie. || 2. Que les lignes ferrées susmentionnées seront achevées et exploitées sur les bases précises tant de l'Arrangement entre la Russie et l'Angleterre en date du 16 Avril, 1899, que du contract conclu le 28 Septembre, 1898, avec une Compagnie particulière relativement à un emprunt pour la construction des lignes précitées, et, en outre, en observant les obligations assumées par cette Compagnie, c'est-à-dire, de ne pas prendre possession de la ligne Shanghaikwan—Yinkow—Sinminting ni d'en disposer de quelque façon que ce soit. || 3. Que si par la suite il sera procédé à la continuation des lignes ferrées dans le sud de la Mandchourie ou à la construction d'embranchements vers elles, aussi bien qu'à la construction d'un pont à Yinkow ou au transfert du terminus du Chemin de Fer de Shanghaikwan qui s'y trouve, ce sera fait après une entente préalable entre les Gouvernements de Russie et de Chine. || 4. Vu que les dépenses faites par la Russie pour le rétablissement et l'exploitation des lignes ferrées restituées de Shanghaikwan — Yinkow — Sinminting n'ont pas été comprises dans la somme totale de l'indemnité, elles lui seront remboursées par le Gouvernement Chinois. Les deux Gouvernements s'entendront sur le montant des sommes à rembourser. || Les dispositions de tous les Traités antérieurs entre la Russie et la Chine, non modifiées par la présente Convention, restent en pleine vigueur. || La présente Convention aura force légale à dater du jour de la signature de ses exemplaires par les Plénipotentiaires, de l'un et de l'autre Empire. || L'échange des ratifications aura lieu à Saint-Pétersbourg dans le délai de trois mois à compter du jour de la signature de la Convention. || En foi de quoi les Plénipotentiaires respectifs des deux Hautes Parties Contractantes ont signé et scellé de leurs sceaux deux exemplaires de la présente

Convention, en langues Russe, Chinoise, et Française. Des trois textes, dûment confrontés et trouvés concordants, le texte Français fera foi pour l'interprétation de la présente Convention.

Fait en double expédition à Pékin, le , correpondant au

Nr. 13070. **GROSSBRITANNIEN.** — Der Konsul in Niutschwang an den Gesandten in China. Stärke der Russen in der Mandschurei.

Newchwang, September 9, 1902.

Sir, || I have the honour to report that I am credibly informed that the number of the military guard of the Russian railways in Manchuria has been fixed at 30 000 men, including some 300 men for the protection of the railway coal mines to the north-east of Liao-yang. At present there is a guard of 150 Russian soldiers at these mines, where some 500 native artizans and labourers are at work. || The railway bridge across the T'ai-tzŭ River, to the immediate north of Liao-yang, has been damaged by floods, causing considerable dislocation of traffic along the line, while the temporary bridge across the Ta-ling River, tho the north-west of Chin-chou Fu, on the Chinese railway, which was lately similarly damaged (the rails and sleepers forming the roadway of the bridge were washed away), has been repaired. || Car loads of machinery and rails are being brought here from the direction of Shanhaikwan, and some 500 Russian soldiers have also arrived here from the west within the last few days. || I learn from Kirin that the Russian Commissariat Department at that city has been instructed to make no preparations for military supplies beyond March of next year. Alex. Hosie.

Nr. 13071. **CHINA.** — Prinz Tsching an den englischen Gesandten in Peking. Die Russen beginnen mit der Räumung der Mandschurei.

October 28, 1902.

Your Excellency, || with reference to the stipulation in the Convention signed between Russia and China for the handing back of Manchuria, which provided for the withdrawal within six months of the date of the signature of all the Russian troops from the south-west portion of the Province of Moukden as far as the Liao River, and for the restitution of the railways to China, I have the honour to inform your Excellency that this first period for evacuation being due on the 9th October (26th September o. s.), this Board arranged beforehand with his Excellency

the Russian Minister that they should memorialize the Throne to appoint officials to take over charge. || Their Excellencies the Minister Superintendent of Northern Ports and the Military Governor of Moukden have now severally reported by telegram that all the railways outside the Great Wall have been handed back, and that the south-west portion of Moukden Province as far as the Liao River has been completely evacuated by Russian troops. || Great Britain having evinced so friendly an interest in this question, and thereby strengthened the feeling of amity between us, I consider it my duty to inform your Excellency that Russia and China have now carried out the obligations attaching to the first period of evacuation, in accordance with the terms of the Convention, and I trust that your Excellency will inform His Majesty's Government accordingly.

Nr. 13072. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking. Sind die Russen noch in Niutschwang?

Foreign Office, February 14, 1903.

(Telegraphic.) || Russians at Newchwang. || Are the Russians still in Newchwang, and do they still retain the administration of that port in their hands?

Nr. 13073. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Die Russen sind noch in Niutschwang.

Peking, February 16, 1903. (February 16.)

(Telegraphic.) || With reference to your Lordship's telegram of the 14th instant. || Russians are still in Newchwang. On the 2nd instant His Majesty's Consul reported that new Russian Consul combines duties of Civil Administrator and Consul. He took over charge of Civil Administration on the 14th ultimo. || Hart controls the Imperial Maritime Customs. The staff is cosmopolitan, but the Commissioner is British. Duties collected, minus a monthly amount required for the support of the office, are paid into the Russo-Chinese Bank. || The Native Customs are also paid into the Russian Bank, and it is believed that they are drawn upon for the support of the provisional Government. They are not under the Commissioner, but are collected by men lent by the Maritime Customs.

Nr. 13074. **GROSSBRITANNIEN.** — Derselbe an Denselben. Dasselbe.

Peking, April 9, 1903. (April 9.)

(Telegraphic.) || His Majesty's Consul at Newchwang telegraphs as follows: — || „Newchwang has not been handed over by the Russians. According to the Administrator the reason is the absence of the Taotai, who has been delayed on business concerning the transfer of the province at Moukden. Administrator thinks a few days will settle matters, but professes ignorance of the cause of the Taotai's delay." || The fact that the Russian Chargé d'Affaires has been asked by the Chinese Government for a written notification of the evacuation may perhaps account for the delay. Russian Chargé d'Affaires declined to give notice, but assured Prince Ching that the evacuation would take place. He has asked for instructions from his Government.

Nr. 13075. **GROSSBRITANNIEN.** — Der Gesandte in Tokio an den Minister des Ausw. Die Russen haben Niutschwang geräumt.

Tôkiô, April 14, 1903. (April 14.)

(Telegraphic.) || Following sent to Mr. Townley: — || Japanese Consul at Newchwang has dispatched a telegram, which was received here today, stating that according to private information, Russian troops to the number of 3200 have evacuated Moukden. He does not give the date of this movement. || The Governor's Yamên and all the public buildings now fly the Chinese flag.

Nr. 10376. **GROSSBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Grund für die Verzögerung der Räumung Niutschwangs.

St. Petersburgh, April 15, 1903. (April 15.)

(Telegraphic.) || The Chinese Minister has been informed that the temporary delay in the evacuation of Newchwang, referred to in Mr. Townley's telegram of the 9th instant, was due to the arrival of foreign ships of war at that port, the Russians requiring an assurance before evacuating that the town would not be occupied by other foreign forces. He has received a positive assurance that the engagement respecting evacuation will be faithfully observed by the Emperor.

Nr. 13077. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Verhalten der Russen in Niutschwang.

Peking, April 17, 1903. (April 17.)

(Telegraphic.) || A Russian, aged 25, has been appointed Commissioner of Customs at Newchwang by Sir R. Hart. New Commissioner was Inspector-General's Private Secretary, and appointment has caused much dissatisfaction at Newchwang. At Newchwang Russians will now have the Commissioner of Customs, the Native Customs, and the Customs Taotai.

Nr. 13078. **GROSSBRITANNIEN.** — Derselbe an Denselben. Die chinesische Regierung fürchtet neue Übergriffe Rußlands.

Peking, April 17, 1903. (April 17.)

(Telegraphic.) || Newchwang evacuation. || Sir C. Scott's telegram of the 15th instant. || There is a growing feeling here that either evacuation will not take place or that Russia is exacting conditions. All the Chinese Ministers are away with the Court. || I am informed by His Majesty's Consul at Newchwang that the war-vessels at present in the port are His Majesty's ship „Vestal", United States' ship „Wilmington", and two Russian gun-boats. It would not appear that such a force could offer much danger of a foreign occupation on evacuation by the Russians.

Nr. 13079. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Rußland stellt neue Bedingungen für die Räumung der Mandschurei.

Peking, April 23, 1903. (April 23.)

(Telegraphic.) || Manchurian evacuation. I hear that before further evacuating Manchuria, Russians have demanded seven conditions. My informant only quotes three, which, he says, are the most important: — || 1. Same status as regards administration as during occupation. || 2. No nationals other than Russians to be employed in the north. The north might at a stretch be made to mean North China generally, but presumably it refers to the part of the Empire beyond the Great Wall. || 3. No Consulate of other Powers to be established, nor free port opened in evacuated district. || The assurances given here that the evacuation would be faithfully carried out ill accord with the demand for such

conditions, which is a flagrant breach of the Manchurian Convention. || To-day the Court returns, and this afternoon or to-morrow I hope to have an audience of Prince Ching.

Nr. 13080. **GROSSBRITANNIEN.** — Derselbe an Denselben. Dasselbe.

Peking, April 23, 1903. (April 23.)

(Telegraphic.) || Manchurian evacuation. News contained in my telegram of to-day is confirmed. Following are remaining four conditions: — || 1. No portion of the three provinces ever to be alienated to any foreign Power. || 2. Newchwang sanitary Regulations to be managed by Russians. || 3. Newchwang customs to be paid into Russo-Chinese Bank. || 4. Russians to have right to use all Chinese telegraph poles in Manchuria for Russian wires. || Chinese Government have refused to accept Russian note containing conditions.

Nr. 13081. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking. Die Auslieferung Niutschwangs kann schlimme Folgen für China haben.

Foreign Office, April 23, 1903.

(Telegraphic.) || Russia and Newchwang. Your telegram of the 17th instant. || You should represent to the Chinese Government that they have, by acceding to the Russian demands, practically handed over to Russian administration a Treaty port where the trade is almost exclusively British, American, and Japanese. || If this action tends to strengthen Russian hold on Manchuria, and leads to demands in other directions from other Powers, the Chinese Government have only themselves to thank.

Nr. 13082. **GROSSBRITANNIEN.** — Derselbe an Denselben. China soll sich neuen Forderungen widersetzen.

Foreign Office, April 23, 1903.

(Telegraphic.) || Delay in evacuation of Manchuria. Your telegrams of to-day. || You should urge the Chinese Government to refuse any conditions not justified by the Manchurian Convention, and point out that Article LIV of the Treaty of Tien-tsin would be violated by the second condition mentioned in your first telegram of to-day, and would

be resented by us. || Demands as stated are quite inadmissible. || Act with your Japanese colleageu

---

Nr. 13083. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Näheres über die russischen Forderungen. China will sie ablehnen.

Peking, April 24, 1903. (April 24.)

(Telegraphic.) || Manchurian evacuation. The conditions of evacuation reported in my telegram of yesterday are confirmed by Prince Ching with the following exception: — || No. 2 should read that for every foreigner employed in the Administration a Russian colleague shall be appointed. His Highness stated that he could not remember 7th condition, and that No. 3 does not exist as a condition. || I will endeavour to obtain full text of demands. || Chinese Government, Prince said, had refused to entertain the conditions, and in this refusal it intended to remain firm. He added that Russia had no grounds for imposing fresh conditions, nor any right to do so, but stated that in their note Russians did not make evacuation conditional on acceptance of these demands. || In reply I informed the Prince that, although I had not yet received your Lordship's instructions, I could assure him that His Majesty's Government would afford him support in resisting Russian demands similar to that which was given at the time of the negotiation of the Manchurian Convention. A similar assurance was given by the Japanese Minister. || I communicated to the Prince the contents of your Lordship's telegram of yesterday, and urged upon him that if he gave way now upon the minor points the more important concessions would inevitably form the object of increased Russian pressure in the future.

Nr. 13084. **GROSSBRITANNIEN.** — Der Botschafter in Washington an den Minister des Ausw. Die Vereinigten Staaten wollen Ablehnung der russischen Forderungen.

Washington, April 26, 1903. (April 26.)

(Telegraphic.) || Manchuria. With reference to your Lordship's telegram of yesterday,*) I have not had the opportunity of having a personal interview with the Secretary of State, but I understand that he has in-

*) Darin hatte der Minister dem Botschafter die russischen Bedingungen mitgeteilt. Red.

structed the United States' Minister at Peking, by telegraph, to urge on the Chinese Government the advisability of refusing the first and second of the conditions laid down by Russia. || He has also instructed the United States' Ambassador at St. Petersburgh, by telegraph, to request explanations from the Russian Government. || The Russian conditions appear to have aroused general indignation in the press of this country.

Nr. 13085. **GROSSBRITANNIEN.** — Derselbe an Denselben. Dasselbe.

Washington, April 27, 1903. (April 27.)

(Telegraphic.) || Manchuria. My immediately preceding telegram of yesterday. || The information which I reported to your Lordship is confirmed by the Secretary of State, who has instructed the United States' Ambassador at St. Petersburgh to make his inquiries in a friendly spirit, and to point out to the Russian Government that the conditions laid down by them are not in accordance with the proposed stipulations contained in the draft Treaty between the United States and China, a copy of which has been communicated to them.

Nr. 13086. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Genauerer Text der russischen Bedingungen.

Peking, April 27, 1903. (April 28.)

(Telegraphic.) || My telegrams of the 23rd instant. || Manchurian evacuation. || Chinese text of Russian conditions has been communicated to me. It is very obscure in places, being evidently a bad translation from some foreign language, and must be held to be subject to alteration. || 1. Condition No. 1 (No. 1 in my second telegram of the 23rd instant) provides that territory in the Liao River and Newchwang district to be evacuated should in no circumstances be ceded to another Power, either by sale or lease. Such action would be regarded by Russia as a threat on the part of China, and she would take decisive steps to protect her own interests. || In the original text the wording of this condition may admit of a wider meaning. || No. 2 (No. 1 in my first telelegram of the 23rd instant). This condition refers to Mongolia, and demands that no change should be made in the present Chinese system of Administration. || No. 3 (No. 3 in my first telegram of the 23rd instant). This condition should be prefaced by words „without previously informing Russian Government". || No. 4 (No. 2 in my first telegram of the 23rd instant) runs as

follows: „If China is determined to invite foreigners to manage administrative matters, their powers must not extend to the north of China. Since Russian interests are predominant in the north, if foreigners are invited to manage affairs there, branch agencies must be established under Russian control. For instance, if foreigners are engaged as mining advisers, they must not interfere with mining matters in Mongolia and the three Manchurian provinces, Russian experts must be asked to manage such mining matters." || I am assured confidentially that, although Mongolia and Manchuria are especially mentioned, Chih-li is also intended to be included in the term used. || No. 5 is practically the same as No. 4 in my second telegram of the 23rd instant, but in the Chinese the sense is very obscure. || No. 6 is No. 3 of my second telegram of the 23rd instant, and remains unchanged. || No. 7. This is a very lenghthy condition referring to the Sanitary Board of Newchwang. It requires, briefly, that, after the evacuation, Russian business firms and Russian subjects shall continue to enjoy whatever privileges they may have acquired. It points out the ease with which disease may be spread by the railway, and, in order to prevent this, requires the creation of an office to direct the necessary precautionary measures. It is demanded that the present Russian sanitary measures be maintained after the evacuation, that the Customs doctor and the Commissioner of Customs be Russian subjects, and that a permanent Board be established. This Board to consist of the doctor, the Commissioner of Customs, the foreign Consuls at Newchwang, the Taotai, the agent of the Manchurian Railway, and an expert bacteriologist (presumably Russian).

Nr. 13087. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Washington. England will mit den Vereinigten Staaten die offene Tür in China erhalten.

Foreign Office, April 28, 1903.

(Telegraphic.) || Evacuation of Manchuria. Your telegram of the 27th instant. || You may assure the United States' Government that it is our desire and intention to act in accordance with what we conceive to be the policy of the United States, namely, to open China impartially to the commerce of the whole world, to maintain her independence and integrity, and to insist upon the fulfilment of Treaty and other obligations by the Chinese Government which they have contracted towards us. || His Majesty's Government hope that the United States' Government will keep them fully informed of any action taken by them.

Nr. 13088. **GROSSBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Graf Lamsdorff motiviert die Verzögerung der Räumung.

St. Petersburgh, April 29, 1903. (April 29.)

(Telegraphic.) || Last night the United States' Ambassador had an interview with Count Lamsdorff, and showed his Excellency the report of the demands said to have been made by the Russian Legation at Peking. || Count Lamsdorff expressed surprise that the Russian Government should have been suspected in any quarter of not wishing to observe the published conditions of evacuation, confirmed by the solemn assurances of the Emperor — thereby incurring the risk of complications with foreign Powers — and gave the Ambassador the most positive assurances that no such demands had been made by the Imperial Government. || Any delay in carrying out the evacuation was due to the natural necessity of obtaining assurance that the Chinese Government was on its side fulfilling its obligations, which could be better ascertained by the Russian Minister, who was about to return to Peking, than by a Secretary temporarily in charge of the Legation. || This denial was accepted by the United States' Ambassador, and he made no further representations. || The instructions from his Government were as reported to your Lordship by Sir M. Herbert. || Count Lamsdorff's usual weekly reception will not take place to-day, but there now seems to be no reason why either the Japanese Minister or I should speak to his Excellency on the subject. || General Kuropatkine started on his visit to Manchuria and Japan yesterday.

Nr. 13089. **JAPAN.** — Der Gesandte in London an den englischen Minister des Ausw. Denkschrift über die russischen Forderungen an China.

1. No portion of territory restored to China by Russia, especially at Newchwang and in the Valley of Liao-ho, shall be leased or sold to any other Power under any circumstances; if such sale or lease to other Power be concluded, Russia will take decisive steps in order to safeguard her own interests, as she considers such sale or lease to be a menace to her. || 2. The system of Government actually existing throughout Mongolia shall not be altered, as such alteration will tend to produce regrettable state of affairs as the uprising of the people and the disturbances along the Russian frontier; the utmost precaution shall be taken in that

direction. || 3. China shall engage herself not to open, of her own accord, new ports or towns in Manchuria, without giving previous notice to the Russian Government, nor shall she permit foreign Consuls to reside in those towns or ports. || 4. The authority of foreigners who may be engaged by China for the administration of any affairs whatever, shall not be permitted to extend over any affairs in Northern Provinces (including Chile), where Russia has the predominant interests. || In case China desires to engage foreigners for the administration of affairs in Northern Provinces, special offices shall be established for the control of Russians: for instance, no authority over the mining affairs of Mongolia and Manchuria shall be given to foreigners who may be engaged by China for the administration of mining affairs; such authority shall be left entirely in the hands of Russian experts. || 5. As long as there exists a telegraph line at Newchwang and Port Arthur, the Newchwang—Peking line shall be maintained, as the telegraph line at Newchwang and Port Arthur and throughout Shangkieng Province is under Russian control, and its connection with her line on the Chinese telegraph poles at Newchwang, Port Arthur, and Peking is of the utmost importance. || 6. After restoring Newchwang to the Chinese local authorities, the Customs receipts there shall, as at present, be deposited with the Russo-Chinese Bank. || 7. After the evacuation of Manchuria, the rights which have been acquired in Manchuria by Russian subjects and foreign Companies during Russian occupation shall remain unaffected; moreover, as Russia is duty-bound to insure the life of the people residing in all the regions traversed by the Railway, it is necessary, in order to provide against the spread of epidemic diseases in the Northern Provinces by the transportation of passengers and goods by railway train, to establish at Newchwang a quarantine office after the restoration of the place to China; the Russian Civil Administrators will consider the best means to attain that end. Russians only shall be employed at the posts of Commissioner of Customs and Customs Physician, and they shall be placed under the control of the Inspector-General of the Imperial Maritime Customs. These officials shall perform their duties conscientiously, shall protect the interests of the Imperial Maritime Customs, and shall exhaust their efforts in preventing the spread of those diseases into the Russian territories. Permanent Sanitary Board, presided by Customs Taotai, shall be established. The foreign Consuls, Commissioner of Customs, Customs Physician, and Agent of Chinese Eastern Railway Company, shall be Councillors of the Board. As regards the establishment of the Board and the management of its affairs, the Customs Taotai shall consult with

the Russian Consul, and the Customs Taotai shall devise the best means to obtain funds necessary for the purpose.

April 27, 1903.

Nr. 13090. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. China hat die russischen Forderungen abgelehnt. Rußland stellt neue Bedingungen.

Peking, April 30, 1903. (April 30.)

(Telegraphic.) || Manchurian evacuation. || Your Lordship's telegram of the 24th instant. || I was informed by Prince Ching, at an interview which I have just had with his Highness, that Chinese Government had refused Russian conditions in an official note, and that request proffered yesterday by Russian Chargé d'Affaires, that each condition might be answered separately, had been verbally refused. A note was thereupon presented by Russian Chargé d'Affaires to the effect that his Government wished to be reassured as to the following reports: — || 1. That therewas an intention to assimilate the administration of Mongolia to the administration at present in force in China proper. || 2. That a cession of territory to some foreign Power in the Liao River district was contemplated by China. || 3. That foreign Consuls were to be appointed in other places in Manchuria with China's permission.

In reply, the Prince stated that there had never been any question of ceding territory in the Liao River district to a foreign Power, that the question of altering the administrative system of Mongolia was not under consideration for the present, as, although the matter had been discussed, the Throne had refused its assent; and that the extent of the development of the trade of Manchuria could alone decide the question of the opening of Treaty ports, and the appointment of foreign Consuls which would probably result therefrom. A note will be sent to-day embodying this reply. || This answer the Russian Chargé d'Affaires promised to communicate to his Government. He stated that the delay in the evacuation was due to the military party in Russia, but he thought that the explanations given would suffice to allay their anxiety, and added that in his opinion Newchwang would shortly be evacuated.

Nr. 13091. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking. Wünscht Nachrichten über die Zölle von Niutschwang.

Foreign Office, April 30, 1903.

(Telegraphic.) || Newchwang Customs. || Please inform me what the exact position of the revenues in after they have been paid into the Russo-Chinese Bank. || Considering the fact that Maritime Customs revenues are assigned to loans and balance to indemnity, how were Chinese Government justified in consenting to the deduction of the Railway claim?

Nr. 13092. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Erklärung des russischen Botschafters über die Räumung.

Foreign Office, May 1, 1903.

Sir, || The Russian Ambassador called upon me to-day, and, in reply to the inquiries which I had addressed to him on the 29th April (see my despatch of the 29th ultimo), made to me a statement to the following effect: — || The information which had reached the British Government as to the conditions required for the evacuation of Manchuria was not at all correct. || The discussions which are proceeding at Peking concern Manchuria alone, and have reference to certain guarantees which are indispensable for the purpose of securing the most important Russian interests in the province, after the withdrawal of the troops. || As for measures which might tend to excluding foreign Consuls, or obstructing foreign commerce and the use of ports, such measures are far from entering into the intention of the Imperial Government. || They consider, on the contrary, that the development of foreign commerce is one of the main objects for which the Russian Government have undertaken the construction of lines of railway in that part of the world. || I thanked his Excellency for his communication, which would, I told him, be received with satisfaction in this country. Lansdowne.

Nr. 13093. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Antwort auf Nr. 13091.

Peking, May 2, 1903. (May 2.)

(Telegraphic.) || With reference to your Lordship's telegram of the 30th ultimo. || I learn from Manager of Russo-Chinese Bank that, by

order of Russian Government, the Newchwang customs revenues are paid into the bank; and that until orders are received from St. Petersburgh as to their disposal, they will be held in deposit. The Chinese Government will eventually be rendered an account of them. || The sources of revenue named in the Protocol are not specially devoted to the purpose of indemnity payments, though they are considered as securities in case of default. These payments are furnished by the various provinces, and each province is held responsible for a fixed amount. The present mode of payment has not been objected to by any Power.

Nr. 13094. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking. Welche Küstenzölle in Niutschwang bleiben frei von russischer Kontrolle?

Foreign Office, May 2, 1903.

(Telegraphic.) || Newchwang customs. || With reference to your telegram of to-day, please let me know whether customs revenues will be free from Russian control after evacuation, into what bank they will be paid, and whether they will be paid to the credit of the Chinese Government.

Nr. 13095. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Antwort auf das vorige.

Peking, May 3, 1903. (May 3.)

(Telegraphic.) || Manchuria. Your Lordship's telegram of yesterday. || The subject of No. 6 of the conditions denied by Russia is the question of the banking of the Newchwang customs after evacuation, and condition is as follows: — || „The Russo-Chinese Bank will continue to fulfil, as at present, the functions of the Customs Bank at Newchwang after the transfer of that port to the Chinese Administration."

Nr. 13096. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking. Die Küstenzölle sollen nicht in die russisch-chinesische Bank gezahlt werden.

Foreign Office, May 4, 1903.

(Telegraphic.) || Newchwang customs revenues. Your telegram of the 3rd May. || You should keep the point before the Chinese Government.

They should maintain their refusal to allow the revenues to be paid into the Russo-Chinese Bank after evacuation, or, if this is much longer delayed, for an indefinite period.

Nr. 13097. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Die Mandschurei wird den Fremden geöffnet.

Peking, May 5, 1903. (May 5.)

(Telegraphic.) || Following telegram from His Majesty's Consul at Newchwang, with reference to your Lordship's telegram of the 2nd instant: — || „Notification was to the effect that Russian military permits are no longer necessary for foreigners in the interior. Statement is justified to this extent. Excepting Feng-huang and Liao-yang, troops withdrawn from all towns."

Nr. 13098. **GROSSBRITANNIEN.** — Derselbe an Denselben. Weitere Verhandlungen zwischen Rußland und China über die Mandschurei.

Peking, May 8, 1903. (May 8.)

(Telegraphic.) || Manchuria. My telegram of the 30th ultimo. || I am informed that a fourth question, respecting the employment of foreign advisers in Manchuria was put to Prince Ching by Russian Chargé d'Affaires, who asked whether the engagement of such advisers was contemplated by China. || In reply, Prince Ching stated that in Manchuria no foreign advisers were employed at present.

Nr. 13099. **GROSSBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Unterredung mit Lamsdorff. Rußland wird seine Versprechungen erfüllen.

St. Petersburgh, May 14. 1903. (May 18.)

(Extract.) || In the course of conversation yesterday Count Lamsdorff said that he had been thoroughly astounded and perplexed by the exaggerated reports and the campaign of accusations of Russia which had been appearing in the English and American press lately. || M. de Witte had a few days ago asked him if he could in any way account for the reports of military movements to the Yalu River and reoccupation and fortification of Newchwang, which had created something like a panic

on the Exchange of St. Petersburgh. || Count Lamsdorff had been utterly unable to account for them, as he knew of a certainty that no military movements were likely to take place except in preparation for embarking those troops which were to be withdrawn from Manchuria by sea. He was not aware of Newchwang having been yet evacuated, and there was certainly no intention to send any more troops there. || Count Lamsdorff went on to say that he had ascertained that all these false reports had been telegraphed in the same form to different parts of the world, and, he believed, originated from some Agency at Yokohama, possibly in order to carry out some *coup* on foreign Exchanges, but the attempt was a most mischievous and dangerous one; equally unaccountable were the reports which hay been disseminated from Peking of Russian designs, and of the conclusion of a new Convention with China containing further detailed conditions for the evacuation of Manchuria. || Nothing of the kind was, he said, taking place; the Russian Chargé d'Affaires had simply been in negotiation with the Chinese Government in order to obtain certain indispensable guarantees in accordance with the engagements which China had undertaken under the Manchurian Convention, for the adequate protection of Russia's important interests in that province, the protection of her frontier, and of the costly railway which Russia had constructed to Port Arthur, and of the commercial interests of that important artery of trade. || There was no intention of departing from the published declarations and assurances which had been given with regard to the evacuation of Manchuria, or infringing on the Treaty rights of other Powers, and far from desiring to place any obstacle whatever in the way of foreign trade with Manchuria, the Russian Government in the interest of their own railway were only too anxious to forward its development by every possible means. || I said that I had certainly read all the sensational reports to which his Excellency had been referring, some of them of a very confused and contradictory nature, but that I had had no occasion or authority to mention them to him, still less to imply the slightest doubt of the Emperor's intentions to strictly carry out the engagements with China and the public assurances and declarations which had been repeatedly given in connection with them. || It was true, however, that these reports had created great sensation in England, and I saw that your Lordship had been grateful to his Excellency for authorizing Count Benckendorff to give him the reassuring explanations which had been communicated to Parliament. || Count Lamsdorff said that he had been glad to be able to do so, and he seemed to thoroughly appreciate the manner in which this delicate incident had been treated by His Majesty's

Government. || He said, however, that as regarded public opinion and the press in England, he thought that the exercise of a little common sense should have satisfied any one that if it had been considered in the interest of Russia to take permanent possession of Manchuria or annex it to the Empire, she could easily have done so on the outbreak of the disturbances, on the just ground that China had attacked and practically made war on Russian territory. || I said that, had she done so, I was afraid no true friend of Russia would have been able to compliment her on the wisdom or value of such an embarrassing addition to her responsibilities. || Count Lamsdorff smiled, and said that they would be quite right, and that it was for that very reason that he had resolutely refused ever to countenance such an idea, as the acquisition of Manchuria would be a hindrance rather than a gain, and it would not secure more protection for their frontier or railway than they hoped to secure by the arrangements which they were making with China in view of the withdrawal of the temporary occupation.

Nr. 13100. **GROSSBRITANNIEN.** — Der Botschafter in Washington an den Minister des Ausw. Öffnung der mandschurischen Häfen.

Peking, May 19, 1903. (May 19.)

(Telegraphic.) || Manchuria. It is said that the immediate opening of the Treaty ports asked for by America is advocated by Chinese Treaty Commissioners at Shanghae. I am informed by United States' Minister that Russian Government has declared that it has absolutely no objection to the appointment of Consuls in Manchuria and opening of ports, but Russian Chargé d'Affaires has received no instructions in that sense.

Nr. 13101. **GROSSBRITANNIEN.** — Derselbe an Denselben. Dasselbe.

Washington, May 23, 1903. (May 24.)

(Telegraphic.) || Mr. Hay has heard from Japanese sources that the opening of the Treaty ports is still being opposed by the Russian Chargé d'Affaires. Accordingly, he has informed the Russian Ambassador here that he has instructed the United States' Minister at Peking, in view of the assurances given at St. Petersburgh, to make to M. Lessar, immediately on his arrival, the suggestion that a simultaneous communication to the effect that the Russian Government have now objection to the opening of the Treaty ports should be made by them to the Chinese

Government. || Mr. Hay has, I understand, proposed to Chinese Government, as a compromise, that the opening of the Treaty ports, instead of being included in the Treaty, shall be provided for by an exchange of notes.

Nr. 13102. **GROSSBRITANNIEN.** — Der Gesandte in Tokio an den Minister des Ausw. Bericht über die Haltung der japanischen Presse.

Tokio, April 30. 1903. (Juni 2).

As the date approached for the execution of the arrangements connected with the second stage of the Russian evacuation of Manchuria, the Japanese press showed no signs of excitement, and even when this date passed by without the promised evacuation taking place the papers maintained for some days the same quiet attitude. The „Jiji", for instance, a paper always remarkable for its very moderate views, referring as late as the 19th April to the delay in the withdrawal of the Russian troops and the rendition of Newchwang, suggested that there was probably some not altogether insufficient reason for it, and expressed the conviction that Russia would not fail to carry out the stipulations of her Agreement with China. But it added at the same time, and similar language was held by other journals, that Japan could not allow Russia to obtain from China special privileges in Manchuria injurious to her own Treaty rights, and that if Russia advanced any such pretensions a grave situation would be created. And Japan's interest in the solution of the Manchurian difficulty was thus explained a day or two later by another paper, the „Asahi": — || „The day that sees the establishment of Russia's suzerainty in Manchuria also sees that of the ‚closed-door' policy. This would mean for Japan a defeat in the struggle for existence." || When the rumours of fresh demands on the part of Russia in connection with her evacuation of Manchuria were confirmed, the Japanese papers generally adopted a less pacific tone.

Nr. 13103. **GROSSBRITANNIEN.** — Der Botschafter in Washington an den Minister des Ausw. Verhandlungen zwischen den Vereinigten Staaten und Rußland über die Öffnung der Mandschurei.

Washington, June 2, 1903. (June 3.)

(Telegraphic.) || With reference to my telegram of the 23rd ultimo: || In reply to the suggestion of the United States' Minister at Peking, the

Russian Minister has informed him that Russia is not opposing the opening of Treaty ports in Manchuria, but that, without instructions from his Government to whom he has telegraphed, he cannot make a joint communication to the Chinese Government in the sense suggested.

Nr. 13104. **GROSSBRITANNIEN.** — Derselbe an Denselben. Dasselbe.

Washington, June 4, 1903. (June 5.)

(Telegraphic.) || Manchuria. The Russian Ambassador here has assured the Secretary of State that his Government are not opposed to the opening of the ports, and the United States' Ambassador at St. Petersburgh, who is at present here on leave, brings similar information. || Mr. Hay accordingly hopes that the only opposition which he now has to meet will be from the Chinese Government, and he would therefore be grateful if Mr. Townley might be instructed to make a communication in support of the United States' Government's request at Peking. || Mr. Hay is making a suggestion to the Japanese Government in the same sense.

Nr. 13105. **GROSSBRITANNIEN.** — Derselbe an Denselben. Dasselbe.

Washington, June 6, 1903. (June 7.)

(Telegraphic.) || Manchuria. With reference to my telegram of the 4th instant, I learn that M. Lessar states that no instructions have reached him from his Government regarding Mr. Conger's request, but that Count Cassini yesterday addressed a note to Mr. Hay, inquiring what was the meaning attached by the United States' Government to the term „Treaty port", and what action they wished Russia to take. || In reply to the first inquiry Mr. Hay referred Count Cassini to the correspondence which passed between the Russian and United States' Governments in 1899, and in answer to the second he requested the Russian Government to inform the Chinese Government that it was not true that Russia was preventing the opening of the Treaty ports, in view of the Chinese statement to that effect. || Mr. Hay states that it is a matter of indifference to him whether the opening of the ports is secured by a Chinese Imperial Edict or by a Treaty.

Nr. 13106. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Verhandlungen zwischen Rußland und China.

Peking, June 12, 1903. (June 12.)

(Telegraphic.) || Evacuation of Manchuria. || Two days ago Prince Ching called on Russian Minister. The Prince, as I understand from a reliable source, refused to discuss any of the conditions except those relating to the establishment of a Newchwang Sanitary Board and the payment of customs duties into Russo-Chinese Bank. These might be open to reconsideration, he said. || Prince has been granted five days' more sick leave, and has returned to the Summer Palace.

Nr. 13107. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking. China soll die Zahlung in die russisch-chinesiche Bank ablehnen.

Foreign Office, June 13, 1903.

(Telegraphic.) || Your telegram of yesterday and my telegram of the 30th April. || Urge the Chinese Government to resist the continued payment into the Russo-Chinese Bank of the Newchwang Customs revenues.

Nr. 13108. **GROSSBRITANNIEN.** — Derselbe an Denselben. Wünscht nähere Nachrichten über die russisch-chinesischen Verhandlungen.

Foreign Office, June 17, 1903.

(Telegraphic.) || I have been informed that the Chinese Government is being pressed by the Russian Minister at Peking to consent to the conditions which the Russian Government endeavoured to attach to the evacuation of Manchuria, and that he was urging in particular compliance with those conditions which relate to the appointment of foreign Consuls and establishment of open ports in the districts which are to be evacuated. || Please inform me if any information to this effect has reached you.

Nr. 13109. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Ein Abkommen zwischen Rußland und China ist bevorstehend.

Peking, June 20, 1903. (June 20.)

(Telegraphic.) || Prince Ching informed me yesterday that an arrangement, of which he could not give me details, would shortly be arrived at by which Manchuria would be preserved to China without any loss of sovereign rights. I warned him that any concessions to Russia calculated to threaten British possessions in Asia would be strongly opposed, and that the Treaty rights of the Powers must be respected. On both these points he gave me assurances. || With regard to the opening of Treaty ports, his Highness said that China would open them after the Russian evacuation if she saw fit. He added that as soon as the Russian occupation ceased the Newchwang customs revenue duties would be paid into the Customs Bank as before.

Nr. 13110. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Unterredung mit dem russischen Botschafter. Rußland wird sich der Öffnung der mandschurischen Häfen nicht widersetzen.

Foreign Office, July 11, 1903.

Sir, || The Russian Ambassador asked me for an interview to-day, and made me a verbal communication in the following terms: — || „Whatever may be the result of the negotiations which are pending between Russia and China, and which bear exclusively upon the protection of Russian interests of the first importance in the occupied province, the Imperial Government have no intention of opposing the gradual opening by China, as commercial relations develop, of some towns in Manchuria to foreign commerce, excluding, however, the right to establish ‚Settlements'. || „This declaration does not apply to Harbin. The town in question being within the limits of the Concession for the Eastern Chinese Railway, is not unrestrictedly subject to the Chinese Government, the establishment there of foreign Consulates must therefore depend upon the consent of the Russian Government." || I told his Excellency that I was obliged to him for his communication, and that I had been for some time anxiously expecting that he would say something to me upon this important subject. I reminded him of the statement which he had made

to me on the lst May, when he contradicted the rumours which had reached me as to the conditions required by Russia for the evacuation of Manchuria, and informed me that measures tending to exclude foreign Consuls or to abstruct foreign commerce in that country were far from entering into the intentions of the Imperial Government. His Excellency's present communication seemed to me to qualify his earlier statement, for it was now clearly indicated that the opening of ports in Manchuria was to be gradually accomplished, and that no foreign Settlements were to be allowed in ports thus opened. The exclusion of Harbin was also new. His Excellency said that Harbin was the centre of the Russian railway system, and must obviously remain under exclusively Russian control. || His Excellensy hoped that, now that we were aware of the intentions of Russia, we should be found willing to discourage the Chinese from their persistent opposition to a settlement. || I said that it seemed to me that we were still very imperfectly informed as to the nature of the Russian demands, and that we certainly could not be expected to assist the Russian Government even in preferring those which might seem to us unobjectionable so long as we were in ignorance of their other requirements. || We had heard, for example, that amongst the latter were demands that no foreigners, except Russians, should be employed in Northern China, that the Newchwang customs should be paid into the Russian Bank, and that the sanitary arrangements at that port should be entirely under Russian control. || His Excellency expressed incredulity at the first of these statements; as to the second, he said that the customs receipts must be paid into one bank or another, and that he could not see why the Russian Bank should not be selected, considering the position of Russia in that part of China; as to the third point, he believed that there had been a demand that some Russian doctors should be employed on the Sanitary Board. || I begged his Excellency to remember that we had large commercial interests and Treaty rigths at Newchwang, and that it was impossible for us to tolerate its passing under exclusively Russian control. These were, at any rate, points upon which we should require to be satisfied. || I promised his Excellency that I would consider his statement carefully, and that I would speak to him again upon the subject after I had laid it before my colleagues.

Lansdowne.

Nr. 13111. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Unterredung mit dem russischen Botschafter. England wünscht nähere Kenntnis der russischen Forderungen.

Foreign Office, July 15, 1903.

Sir, || I told the Russian Ambassador to-day that I had communicated to my colleagues the statement which he had made to me on the 11th instant, as to the conditions upon which Russia was prepared to evacuate Manchuria. Their views were not dissimilar to those which I had expressed to him as my own. || The statement appeared to us to be upon the same lines as that which his Excellency had made to me on the 1st May, with additions, or I ought, perhaps, to say, subtractions. I referred to the reservations as to Harbin, and as to the question of foreign Settlements. The latter point in particular would, in our opinion, require careful examination if British commerce was to be carried on in the newly-opened ports under satisfactory conditions. || The main point was, however, this: that we could not arrive at a conclusive opinion in regard to these particular proposals unless we were fully informed as to the whole of the terms upon which the Russian Government were insisting. At some points those conditions were believed to concern us very closely indeed, more especially in so far as they affected Newchwang, where we had large trade interests. Lansdowne.

Nr. 13112. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Unterredung mit dem russischen Botschafter über die Mandschurei, Yangtsethal, Niutschwang. Rußland muß mehr Vertrauen bezeigen.

Foreign Office, July 29, 1903.

(Extract.) || The Russian Ambassador spoke to me as to the possibility of a better understanding between our two countries as to Chinese affairs. He said that the Russian Government had no desire to oppose us in the Yang-tsze Valley, and they were by no means averse from the idea of coming to an understanding with us if such an understanding, could be arrived at. || I replied that our difficulties with Russia could not be properly described as being peculiar to the Yang-tsze Valley. My impression, at any rate, was that, by the Anglo-Russian Agreement of 1899, we had already arrived at a partial understanding with regard to that part of China. On the other hand there were certainly other points

at which we had, unfortunately, failed to come to an understanding. || I referred particularly to Manchuria and to the position of the two Powers in Newchwang. I said that I had myself always been in favour of an amicable arrangement with Russia, and I had more than once suggested, but without success, the possibility of making one. || His Majesty's Government would, I felt sure, not repel any overture which might be made to us, but in such a case it would be necessary for Russia to show us more confidence than she had hitherto vouchsafed, and to let us know, particularly in reference to Manchuria, what terms she was endeavouring to obtain from the Chinese Government. At present we were to a great extent in the dark, and obliged to rely upon reports of Chinese origin, which were no doubt not always of a trustworthy character. If Russia would put us in full possession of her ideas, and if she would bear in mind that for any concessions which she obtained from us we should expect corresponding concessions from her, I believed that we might put an end to the unfortunate rivalry which had so long prevailed between us in China. We had, I said, always recognized that Russia had special interests in that part of China which adjoined her possessions, and we should be ready to consider in the most friendly spirit an arrangement based on the one hand upon the recognition of those interests by this country, and on the other, upon the recognition by Russia of the analogous interests of Great Britain in other parts of the Chinese Empire.

Nr. 13113. **GROSSBRITANNIEN.** — Der Gesandte in Peking an Prinz Tsching. Öffnung der Vertragshäfen in der Mandschurei.

Peking, June 13, 1903.*)

Your Highness, || Some time ago I had a conversation at the Board of Foreign Affairs with regard to the opening of Treaty ports in Manchuria, as requested by the United States' Government. || The opening of Treaty ports is so greatly to the interest of the trade of all nations, and also of China herself, not only as regards revenue, but for other reasons, that I am instructed by His Majesty's Government to express to your Highness their hope that the request of the United States' Government will be complied with.

Walter Townley.

*) Dem englischen Minister des Ausw. am 4. August zur Kenntnis gekommen. Red.

Nr. 13114. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Die mandschurischen Häfen werden nach der Räumung geöffnet.

Peking, August 10, 1903. (August 10.)

(Telegraphic.) ‖ Prince Ching informs me that a promise has been given by China to America that as soon as the evacuation of Manchuria has been carried out the ports will be opened. ‖ The Prince has repeatedly sent to Russian Minister pressing that evacuation should be carried out immediately, and instructions have now been sent to Chinese Minister at St. Petersburgh that a representation in the same sense should again be sent in to the Russian Government.

Nr. 13115. **RUSSLAND.** — Ukas über Errichtung einer Statthalterschaft im fernen Osten.

31. Juli / 13. August 1903.

Vu les problèmes complexes de l'administration dans les confins orientaux de l'Empire, nous trouvons nécessaire l'institution d'un pouvoir apte à assurer le développement pacifique du pays et à satisfaire les besoins locaux urgents. Ayant par conséquent jugé bon que les territoires de l'Amour et de Kouantoun forment dorénavant une lieutenance spéciale, nous ordonnons, savoir: —

1. Notre Lieutenant en Extrême-Orient est revêtu du pouvoir suprême en tout ce qui concerne l'administration civile du pays qui lui est confié, et cette administration est affranchie de la juridiction des Ministères. Au Lieutenant Impérial est également conféré le pouvoir suprême pour le maintien de l'ordre et de la sécurité dans la zone du Chemin de Fer de l'Est Chinois, ainsi que le soin de pourvoir aux besoins de la population Russe dans les possessions limitrophes au delà de la lieutenance Impériale. ‖ 2. Jusqu'à la promulgation d'une loi sur l'administration des territoires d'Extrême-Orient, les limites des pouvoirs du Lieutenant Imperial, ses droits et ses obligations tant envers les institutions supérieures que vis-à-vis des institutions locales, seront déterminés d'après les principes généraux exposés dans le Rescrit Impérial du 30 Janvier, 1845, donné à l'occasion de l'institution d'une lieutenance au Caucase. Les institutions et fonctionnaires de l'État soumis au Lieutenant Impérial ne pourront se mettre en rapport avec les Ministères et les Administrations générales autrement que par l'intermédiaire du Lieutenant Impérial. ‖ 3. Dans les mains du Lieutenant Impérial en Extrême-Orient est concentré le service des rela-

tions diplomatiques concernant les affaires de ces territoires avec les États voisins. || 4. Au Lieutenant Imperial est confié le commandement des forces navales dans le Pacifique et de toutes les troupes cantonnées dans le pays soumis à sa juridiction. || 5. Afin que les dispositions à prendre par l'autorité supérieure en Extrême-Orient concordent avec les vues du Pouvoir Central et l'activité des Ministères, il sera institué, sous notre présidence, un Comité Spécial composé de personnes que notre confiance appellera à ces fonctions. || 6. L'Aide-de-camp, Général Alexeieff, que nous nommons en même temps notre Lieutenant en Extrême-Orient, est chargé, en développant nos indications, d'élaborer des projets de loi sur l'administration des territoires d'Extrême-Orient et de les soumettre à notre approbation.

Le Sénat dirigeant est chargé de pourvoir au nécessaire pour l'exécution de ce qui précède. (Signé) Nicolas.

Nr. 13116. **VEREINIGTE STAATEN.** — Der Botschafter in London an den englischen Minister des Ausw. China hat die Öffnung der mandschurischen Häfen versprochen.

American Embassy, London, August 20, 1903. (August 21.)

My Lord, || I have the honour, under instructions from the Secretary of State to advise you, for the information of His Majesty's Government, that the Chinese Government has formally promised to sign, on the 8th October, a Treaty of Commerce, one section of which provides for the opening of the ports of Moukden and Ta-Tung-Kau to foreign commerce. Joseph H. Choate.

Nr. 13117. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Rußland stellt neue Bedingungen.

Peking, September 9, 1903. (September 9.)

(Telegraphic.) || I am informed by Prince Ching that fresh proposals have been made by the Russian Minister. These include: —

1. Appointment to the Newchwang Sanitary Board of a Russian doctor. || 2. Duties on goods imported by the Chinese Eastern Railway to be no higher than those on goods imported by road. || 3. That at the two ports to be opened in Manchuria, no foreign Concessions or Settlements should be created. || 4. That the Russians should establish post-stations between Kirin and Tsitsi-har (Prince has probably made a mistake

here, and means Tsitsi-har and Blagovestchensk). || 5. Permission to be given to the Russians to construct wharves on the Sungari River, and station troops for their protection. || If the Chinese Government accept these proposals, the rest of Moukden to be evacuated on the 8th October, Heilung Chiang in twelve months, and Kirin in four. || Prince thinks that the negotiations will be lengthy; but he has made a counterproposal that these periods should be reduced to four and two months respectively. || He explained that the acceptance of condition I would not prevent the appointment of doctors of other nationalities as well as the Russian; and that condition 3, would not hinder the acquisition of land for building purposes by foreigners. || With regard to condition 5, his Highness' reply to Russian Minister is that China has no objection to the construction of the wharves, but that her own troops would protect them; and with regard to 4, that post-stations will be re-established by China herself. || I warned Prince Ching that he must exercise care and not concede any conditions by which the Treaty rights of other Powers might be interfered with.

Nr. 13118. **JAPAN.** — Der Gesandte in London an den englischen Minister des Ausw. Denkschrift über die russischen Forderungen.

September 11, 1903.

I. Assurances shall be given by China to the effect that the three Manchurian provinces shall never be ceded to any other Power, and that no piece of land in those provinces shall be pledged, leased, or disposed of in any way whatever. || II. In view of the fact that the main roads between Tsitsi-har, Mergen, and Blagovestchensk, as well as the waterway of the River Sungari, are particularly important for the access of merchandise from the various regions of Manchuria to the Chinese Eastern Railway lines, Russia shall construct wharves at several points along the Sungari, and she shall also station number of troops necessary for the protection of the telegraph lines along the river as well as of the ships plying the river. || Russia shall also establish stations at various points along the roads between Tsitsi-har, Mergen, and Blagovestchensk. || III. Upon goods conveyed by the railway no specially heavy duty shall be imposed. The duties imposed upon goods conveyed into Manchuria by railway from one station to another shall not be heavier than those for goods transported overland or by waterway. || IV. Upon the withdrawal of the Russian troops from Manchuria, the branch offices of the

Russo-Chinese Bank in various parts of Manchuria shall be protected by the troops of the Djun-djun; the expenses for the stationing of those troops to be defrayed by the said Bank. || V. In order to prevent the importation of plague from Newchwang, Chinese authorities shall take measures necessary for that purpose after the plan adopted in Shanghae and Tien-tsin. Within the territories appertaining to the Chinese Eastern Railway, Russia shall adopt necessary measures. || In order to secure an accord between the steps which may be taken respectively by Russian and Chinese authorities for the above, a Russian physician shall be employed in the place where Taotai has charge of those precautionary measures.

Japanese Legation, September 11, 1903.

Nr. 13119. **GROSSBRITANNIEN.** — Der Gesandte in Tokio an den Minister des Ausw. Japan sieht in den neuen russischen Forderungen eine Verletzung der „Offenen Tür."

Tôkiô, September 15, 1903. (September 15.)

(Telegraphic.) || I have been shown by Baron Komura the full text of the Russian demands referred to by Sir E. Satow in his telegram of 9th September. The following is a paraphrase of the first paragraph: — || „Assurance shall be given by China that she will never cede the three Manchurian provinces to any foreign Power, and that in those provinces no piece of land, great or small, shall be pledged, leased, or in any manner whatsoever disposed of." || This demand and the one respecting the Sungari River wharves are, in the opinion of the Japanese Government, in entire opposition to the principle of the open door, and their Representative at Peking has been instructed to oppose the new set of demands. || Up till now Japanese public opinion, as voiced in the more respectable section of the press, has been calm, but it has assumed an almost violent character since the publication of the Russian demands. || I have repeated the above to Sir E. Satow.

Nr. 13120. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. China hat die Räumung verlangt.

Peking, September 25, 1903. (September 25.)

(Telegraphic.) P. || Manchuria. I asked Prince Ching how the negotiations were proceeding. He replied that he had written to the Russian Minister refusing the demands, and reminding him that by a solemn Con-

vention between Plenipotentiaries, ratified by the two Sovereigns, Russia was bound to evacuate second portion on 8th April and the last portion on 8th October. || When the evacuation was completed in accordance therewith, China would discuss any international matters requiring settlement. || He enlarged to me on the impossibility of conceding permission to station troops along Sungari and post road from Tsitsi-har to Blagovestchensk, and said if China conceded demands and Russia then nominally withdrew, latter would still be in virtual possession of the country.

Nr. 13121. **GROSSBRITANNIEN.** — Der Gesandte in Tokio an den Minister des Ausw. Japan wünscht die Ansicht Englands über die russischen Forderungen zu erfahren.

Tokio, September 27, 1903. (September 27.)

(Telegraphic.) || With reference to my telegram of the 15th instant on the subject of the new demands put forward by Russia in connection with the Manchurian question, I have the honour to inform your Lordship that, in the opinion of the Japanese Government, the non-alienation demand will prevent the formation of foreign settlements in the new Treaty ports, although the demand has no reference to individuals, but applies solely to Powers. || The Minister for Foreign Affairs has on several occasions inquired whether your Lordship has expressed any opinion concerning the new demands. I replied to his Excellency that the policy of His Majesty's Government respecting the open-door policy in China has in no way changed, and that therefore an expression of opinion from your Lordship was hardly necessary.

Nr. 13122. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Tokio. Antwort auf das vorige.

Foreign Office, September 30, 1903.

(Telegraphic.) || Evacuation of Manchuria: Your telegram of the 27th September. || It appear to His Majesty's Government that there are objectionable features in the new conditions proposed by Russia, but we are unable to express a definite opinion from the information at our disposal, which is not sufficiently precise or authentic. For instance, we are in the dark as to the alleged demands of Russia for the control of the Customs, and it is doubtful what is the true interpretation of the

condition respecting non-alienation. || You should point this out to the Japanese Government, to whom, no doubt, the warnings recently given to the Chinese Government by Sir E. Satow are well known. The warnings are mentioned in telegram of the 9th instant from His Majesty's Minister at Peking, to whom you should repeat this telegram.

Nr. 13123. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Verhandlungen über die Zollfrage.

Peking, October 2, 1903. (October 2.)

(Telegraphic.) || With reference to my telegram of the 9th ultimo and your Lordship's telegram to Tôkiô of the 30th ultimo, the non-alienation condition applies, so I am informed, to any lease, mortgage, or other transfer of all areas of whatever extent. || As regards the Customs, the Russian authorities in Peking objected to the 10th section of Article VIII of the Mackay Treaty being applied to Manchuria, as revenue interests were thereby placed under British control, and they have applied for the appointment of Russia officials instead. || It appears that Russian soldiers were certainly to have guarded the proposed post stations on the road to Blagovestchensk.

Nr. 13124. **RUSSLAND.** — Kaiserlicher Ukas über die Verwaltung des fernen Ostens.

30. September / 13. Oktober 1903.

Oukase de Sa Majesté l'Empereur au Sénat dirigeant.

En créant par Oukase Impérial du 30 Juillet de l'année courante la lieutenance de l'Extrême-Orient, nous avons mentionné que les affaires les plus importantes de l'administration de ce territoire devraient être étudiées par une institution spéciale placée sous notre présidence personnelle. || Ayant approuvé aujourd'hui les Statuts du Comité Spécial de l'Extrême-Orient, annexés ci-joint, nous ordonnons au Sénat dirigeant de les porter à la connaissance générale et de les appliquer dans l'ordre voulu. || Le Sénat dirigeant prendra les mesures néccessaires pour l'exécution de ce qui précède. (Signé) Nicolas.

Darmstadt, le 30 Septembre, 1903.

Statuts du Comité Spécial de l'Extrême-Orient.

(Approuvés par Sa Majesté l'Empereur le 30 Septembre, 1903.)

1. Sa Majesté l'Empereur préside le Comité Spécial de l'Extrême-Orient. || 2. Sont membres du Comité Spécial: les Ministres de l'Intérieur, des Finances, des Affaires Étrangères, et de la Guerre, le Gérant du Ministère de la Marine, et les personnes que Sa Majesté l'Empereur trouvera utile de convoquer, soit pour siéger en permanence au sein du Comité, soit pour prendre part temporairement à ses séances. Le Lieutenant en Extrême-Orient étant, d'après ses fonctions, membre du Comité, prend part aux séances quand il se trouve à Saint-Pétersbourg. || 3. La gestion des affaires du Comité est confiée, sur indication de Sa Majesté l'Empereur, à l'un des membres du Comité. Le Gérant des affaires du Comité siège aussi dans les autres institutions supérieures de l'État quand elles s'occupent d'affaires ayant trait à l'administration de l'Extrême-Orient. || 4. Quand Sa Majesté l'Empereur ne préside pas en personne le Comité, les fonctions de Président sont exercées par un des membres du Comité, désigné à cet effet par Sa Majesté l'Empereur. || 5. Le Gérant des affaires du Comité est en même temps le Directeur de la Chancellerie du Comité, qui se compose d'un Adjoint du Gérant et d'autres fonctionnaires désignés dans les cadres de la Chancellerie. || 6. En cas de besoin, et dans le but d'étudier au préalable les affaires à soumettre aux décisions du Comité, il est créé des Commissions Préparatoires se composant de représentants des diverses Administrations nommés d'accord avec les Ministres compétents. La présidence de ces Commissions est confiée à l'un des membres du Comité ou au Gérant des affaires du Comité. || 7. Le Comité est saisi — || (*a*.) Des affaires ayant trait à l'organisation de l'Administration de l'Extrême-Orient et aux bilans des recettes et des dépenses de cette Administration; || (*b*.) Des affaires ayant trait au développement industriel et commercial du territoire; || (*c*.) Des projets du Lieutenant en Extrême-Orient concernant l'application dans les territoires qui lui sont confiés de nouvelles mesures ou de changements introduits dans les mesures déjà appliquées; || (*d*.) Des affaires qui, pour être résolues, exigent qu'il y ait entente entre le Lieutenant en Extrême-Orient et les Ministres et Directeurs-Généraux; et, || (*e*.) Des affaires dont le réglement dépasse les pouvoirs du Lieutenant. || 8. Pour les affaires les plus importantes ayant un caractère législatif il sera institué au sein du Comité, sur l'indication de Sa Majesté l'Empereur, des séances mixtes auxquelles prendront part des membres du Département de Législation du Conseil de l'Empire. || 9. Les bilans des recettes et les dépenses sont examinés en

séance mixte par le Comité et par le Département d'Économie du Conseil de l'Empire, et ils sont introduits dans le Budget de l'Empire après avoir été approuvés par Sa Majesté l'Empereur. || 10. Les projets des Administrations qui visent les affaires du ressort du Comité du Chemin de Fer de Sibérie, et qui ont trait à des entreprises auxiliaires pour la construction de ce chemin de fer, et principalement aux questions relatives à l'émigration en Sibérie, ainsi qu'aux mesures projetées par rapport à ces questions par le Lieutenant en Extrême-Orient, sont étudiés en séance mixte par les Comités du Chemin de Fer de Sibérie et de l'Extrême-Orient. || 11. Les affaires sont soumises au Comité de l'Extrême-Orient — || (1.) Par ordre spécial de Sa Majesté l'Empereur; et, || (2.) En vertu de Rapports des Ministres et du Lieutenant en Extrême-Orient, signés par eux. || Tous les Rapports destinés au Comité sont transmis au Gérant des affaires du Comité. Les affaires provenant du Lieutenant ou des Ministres et Directeurs-Généraux sont, d'après leur nature, soit soumises à Sa Majesté l'Empereur par le Gérant des affaires du Comité, soit renvoyées directément à l'examen du Comité, après avoir obtenu au préalable l'avis des Ministres ou Directeurs-Généraux compétents. || 12. Le Comité de l'Extrême-Orient n'a par lui-même aucun pouvoir exécutif. La mise à exécution des décisions prises par le Comité appartient au Lieutenant en Extrême-Orient ou à ceux des Ministres qui sont les auteurs des projets soumis à la décision du Comité ou dans le ressort desquels ces projets, de par leur nature, doivent être exécutés.

Nr. 13125. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Näheres über die russisch-chinesischen Verhandlungen. Rußland verschiebt die Räumung.

Peking, September 10, 1903. (October 26.)

(Extract.) || The following appear to be the conditions proposed by the Russian Minister on the 6th instant, for the evacuation of Manchuria. I have not been able to procure the document itself: —

1. That China shall undertake not to alienate any part of Manchuria to another Power, nor to grant land for the purpose of foreign settlements. || 2. Russia to be allowed to establish landing stages on the Sungari River, to connect them by telegraph, and to station Russian troops for their protection. || 3. Russia to be allowed to establish posting stations along the road from Tsitsi-har to Blagovestchensk. || 4. No greater duties to be imposed on goods brought into Manchuria by rail than those now

imposed on goods transported by road or river. || 5. After the withdrawal of the Russian troops, the branches of the Russo-Chinese Bank to be protected by Chinese troops, but at the cost of the Bank. || 6. A Russian doctor to be appointed member of the Sanitary Board at Newchwang.

On these conditions Russia will withdraw from Newchwang and other places within the province of Moukden (Shengking) on the 8th October, from the province of Kirin at the expiration of four months, and from Heilung-chiang at the end of one year. || With regard to the prohibition of foreign „Settlements“ or „Concessions“ at the new ports to be opened in Manchuria, Prince Ch'ing explained that by the Treaty with the United States opening Manchurian ports, foreigners would have the right of purchasing land and erecting buildings within the port limits. || The establishment of landing stations on the Sungari River had formed the subject of discussion more than ten years ago, and China would now concede this, while objecting to Russian troops being stationed there, as China would be quite able and willing to protect the wharves. Similarly she objected to Russia establishing posting stations on the road from Tsitsi-har to Blagovestchensk. Before the troubles Chinese posting stations had existed, and they could be re-established by China. || The proposal that Chinese troops should protect the branches of the Russo-Chinese Bank, I said, appeared innocuous, but I should wish to know what was implied by the appointment of a Russian doctor to the Sanitary Board at Newchwang. || Prince Ch'ing replied that the presence of a Russian doctor would not prevent the appointment by China of doctors of other nationalities in addition. He denied that Russia demanded a majority of Russian members on the Sanitary Board. || I remarked that I did not understand why Russia was now insisting on fresh conditions for the execution of the Convention which she had entered into eigtheen months ago, and particularly her solicitude about the formation of foreign settlements at the new ports, which was apparently as great as if she herself owned Manchuria. The Prince replied that Russia's present excuse for delaying the evacuation beyond the periods named in the original Convention was that the barracks for the railway guards were not ready. If that were so, it appeared to him that the length of time now proposed, namely, four months in the case of Kirin, and twelve months for Heilung-chiang, was in excess of what was necessary, and he had made a counter-proposal for their diminution to two and four months respectively. He mentioned that the Russian authorities talked of leaving 6000 or 7000 troops in Kirin and Heilung-chiang for the term specified, and that he was objecting to this number as too large. He anticipated that it would

take a considerable time to come to an agreement. When once the three provinces had reverted to China, she intended to reorganize the Administration, and to put the three provinces on the same footing as the other provinces of the Empire. The military forces stationed there would be rendered efficient. || I observed that the Chinese Government would, of course, bear in mind in coming to terms with Russia that it was desirable to avoid any agreement in contravention of the rights of other Treaty Powers, which must, of course, bring upon her very serious remonstrances from their side.

Nr. 13126. **GROSSBRITANNIEN.** — Derselbe an Denselben. Rußland beschlagnahmt die mandschurischen Telegraphen.

Peking, October 29, 1903. (October 29.)

(Telegraphic.) || I hear that the Russians have resumed control over Chinese telegraph offices at Mukden and another place which they had some months ago restored to China, and that parties of Russian soldiers have been sent across the Liao River in order to stop telegraphic communication from all stations between Mukden and Kinchou (long. 121, lat. 41).

Nr. 13127. **GROSSBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Rußland hat Mukden wieder besetzt.

St. Petersburgh, November 12, 1903.. (November 16.)

My Lord, || On the 20th ultimo the „Journal de Saint-Pétersbourg" published a telegram from Mukden, dated the 28th, stating that, in consequence „of the apathy of the Chinese authorities, of the non-execution of the promises made on their part, and of the agitation which prevails in the district, a detachment of Russian troops entered Mukden to-day, and has taken up its quarters there". || A later telegram, dated Port Arthur, 10th November, states that the rumours published on this subject by the foreign press are not founded on fact. In order to restore order, two companies in all were sent to Mukden, and no further measures have been taken.

Cecil Spring-Rice.

Nr. 13128. **GROSSBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Rußland fordert einen russischen Generalinspektor der mandschurischen Zölle. Protest des englischen Gesandten bei China.

Peking, September 28, 1903. (November 23.)

My Lord. || I have the honour to inclose copy of a semi-official note which I addressed on the 21st September to Prince Ch'ing, protesting against a demand I understand to have been presented to the Chinese Government by the Russian Minister, which was inconsistent with pledges already given by China to Great Britain. || It was reported to amount in effect to a demand for the establishment of a separate Inspectorate-General of Customs for Manchuria, to be presided over by a Russian official, and manned entirely by Russian subjects, which is manifestly inconsistent with the promise given by China in 1898, that the successor of Sir Robert Hart at the head of the Chinese Imperial Maritime Customs should be an Englishman as long as British trade exceeded in amount that of any other country. || On the following day I learnt from a source deserving of confidence that M. Lessar had proposed that as Russia and China were now on such friendly terms, the latter should agree to appoint a Russian Inspector-General for Manchuria, and appoint Russians to be Commissioners at Mukden and Antunghsien. As your Lordship is aware, the Commissioner sent by Sir Robert Hart to act at Newchwang, an appointment much commented on at the time, is a junior member of the Imperial Maritime Customs Service, of Russian nationality, while the proposed agreement for the establishment of a Chinese custom-house at Dalny will provide for the appointment as Commissioner of a certain M. Protasiew, a Russian official. || On the 24th, I received a reply from Prince Ch'ing stating that the Chinese Government had not accepted any of Russia's demands. || Viewed in the light of what his Highness told me on the following day, as reported in my telegram of the 25th instant, the words „has not accepted any of" may be read as meaning „has rejected all of". || I have since learnt from an authoritative source that the Russian Minister wrote privatelly to the person already mentioned objecting to the provision contained in Article VIII, section 10, of Sir James Mackay's Treaty, whereby a member or members of the Imperial Maritime Customs Foreign Staff are to be selected by each of the Governors-General and Governors, and appointed, in consultation with the Inspector-General of Imperial Maritime Customs, to each province for

duty in connection with native customs affairs, consumption tax, salt and native opium taxes. He stated that such a procedure would not be welcome in Manchuria, seeing it placed Englishmen in charge of revenue interests. The reply made was that the personnel of the Imperial Maritime Customs consists of at least a dozen nationalities, and that the principle adopted is that of choosing the fittest man for a post, irrespective of nationality, and that he would not be necessarily British. || It is obvious, however, that such appointments could not be made as long as Russia does not accept the principle of the Article in question, and that she has no intention of doing, as far as my information goes.

Ernest Satow.

Anlagen.

Sir E. Satow to Prince Ch'ing.

Peking, September 21, 1903.

Your Highness, || A report has just reached me that the Russian Minister has presented demands to the Chinese Government that are inconsistent with pledges already given by the latter to Great Britain. I have no means of ascertaining the truth of this report, and I hope that it is unfounded, but if correct, I trust that your Highness will, without hesitation, refuse demands, the acceptance of which would have a very serious effect on the friendly relations existing between Great Britain and China. Ernest Satow.

Prince Ch'ing to Sir E. Satow.

Peking, September 24, 1903.

Your Excellency, || I have the honour to acknowledge receipt of your letter of the 21st instant, stating that a report had reached your Excellency that the Russian Minister had presented demands to the Chinese Government that were inconsistent with pledges already given by the latter to Great Britain, and expressing the hope that, if the report was correct, I would without hesitation refuse the demands. || In reply to your inquiry, I beg to state that the Chinese Government has not accepted any of Russia's demands.

Nr. 13129. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. England erkennt die russische Kontrolle der mandschurischen Eisenbahnen an, verlangt aber einen Termin für die Räumung.

Foreign Office, November 25, 1903.

(Extract.) || I had a further conversation to-day with the Russian Ambassador in reference to the questions which we had previously discussed on the 7th and 17th instant. || As regards the Far East, I said that, in my view, it would be reasonable that we should recognize the predominating interest of Russia as the limitrophe Power in Manchuria. We had no desire to interfere with her control of her Manchurian railway system. The two Governments had, indeed, agreed that railway development in this part of the Chinese Empire should fall to the Russian Government. Nor could we, I thought, take exception to any reasonable measures of precaution which the Russian Government might adopt for insuring the safety of the line. On the other hand, it was essential that our Treaty rights in all parts of the Chinese Empire should be respected, and that our trade should receive equal treatment in those regions. I dwelt upon the deplorable effect which had been produced on the public mind in this country by the neglect of the Russian Government to fulfil its pledges regarding Manchuria. If circumstances hat arisen rendering it impossible that these pledges should be fulfilled, it was surely due to us that some explanation should be given of those circumstances, I trusted that the Russian Government was now in a position to fix a date for the evacuation, or, at any rate, explain why this was not done. || Count Benckendorff dwelt upon the danger of giving these pledges in circumstances which, as experience had shown, rendered it not always easy to fulfil them. || I asked him whether — at any rate, in the case of Newchwang — it could not be at once arranged that an early evacuation should take place. I attached the greatest importance to this, owing to the extent of our interest in the trade of that port. We should also expect the Russian Government to put an end to the arrangement under which the Newchwang Customs were at present paid to the Russo-Chinese Bank, and a part of the proceeds intercepted by the Russian Government. || In reply to an observation by his Excellency, I said that it seemed to me reasonable that Russia should be adequately represented on the Board of Health, and that we had no desire to prevent this.

Nr. 13130. **RUSSLAND.** — Denkschrift des Botschafters in London an den englischen Minister des Ausw. Rußland wiedersetzt sich nicht der Ausübung der Rechte, die fremde Mächte in der Mandschurei erworben haben.

January 8, 1904.

L'État général de crise que traverse en ce moment l'Extrême-Orient a fait naître dans la presse, l'opinion publique, et même dans les sphères gouvernementales étrangères nombre de commentaires erronés tant sur les rapports de la Russie avec la Chine en général qu'avec la Mandchourie en particulier. || On prête avec persistance à la Russie l'intention de faire opposition aux Puissances étrangères sur le terrain de leur politique commerciale et économique en Chine dans l'idée de les priver par ce moyen, dans la contrée occupée par les troupes Russes, des privilèges qui leur sont reconnus par leurs Traités avec la Chine. || Et, cependant, les intentions et le but du Gouvernement Russe ont été clairement établis, dans toutes les communications émanées de lui à cet égard. || Il est tout naturel que pour la Russie il s'agisse avant tout de garantir sur la longue ligne de sa frontière limitrophe avec la Chine ses intérêts de premier ordre et, entre autres, le réseau ferré si important qu'elle y a fondé. La Russie s'est à maintes reprises efforcée de conclure dans ce but un arrangement complet et précis avec le Gouvernement Chinois. || Il est à regretter que d'un côté les procédés peu justifiables de la Chine et, de l'autre, un état de choses en Mandchourie qui continue à être alarmant, aient rendu jusqu'ici infructueux tous les efforts en ce sens. || Pour ces raisons et aussi pour prévenir tout malentendu et toute interprétation erronée, indépendamment des conditions que dans l'avenir détermineront définitivement la nature de ses rapports avec la Mandchourie, la Russie considère indispensable de déclarer dès aujourd'hui qu'elle n'a aucunement l'intention de mettre obstacle à ce que les Puissances étrangères continuent à jouir des droits acquis par elles en vertu des Traités en vigueur.

Nr. 13131. **GROSSBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Bemerkungen zum vorigen.

Foreign Office, January 8, 1904.

Sir, || the Russian Ambassador asked me for an interview to-day, and made to me a statement in the terms of the Memorandum of which a copy annexed. || I expressed the satisfaction with which I had listened

to his Excellency's observations, which, unless I misunderstood them, were in accordance with assurances which he had given me on previous occasions in regard to the intentions of Russia towards Manchuria. || I could not, however, help regretting that Russia should have found it impossible to take even a single step in pursuance of the policy which she has thus prescribed for herself. I trusted that his Excellency would forgive me for telling him frankly that, in this country, people were looking for some concrete evidence of Russia's intention to make good her promises. An announcement, for example, that Newchwang was to be evacuated at an early date would certainly have a reassuring effect. So far as I was aware, there was no local difficulty in the way. || I asked his Excellency whether he imagined a similar statement had been addressed to the other Powers. He replied that he thought that this was probably the case.

Lansdowne.

Zur Begründung der Australischen Konföderation.*)

Nr. 13132. **AUSTRALIEN.** — Entwurf der Kolonien für ihre künftige Bundesverfassung. Der britischen Regierung überreicht. 1899.

Whereas the people of [*here name the Colonies which have adopted the Constitution*], humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established: And whereas it is expedient to provide for the admission into the Commonwealth of other Australasian Colonies and possessions of the Queen: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows: —

I. This Act may be cited as „*The Commonwealth of Australia Constitution Act*". || II. This Act shall bind the Crown, and its provisions referring to the Queen shall extend to Her Majesty's Heirs and Successors in the Sovereignty of the United Kingdom. || III. It shall be lawful for the Queen, with the advice of the Privy Council, to declare by Proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, the people of [*here name the Colonies which have adopted the Constitution*] shall be united in a Federal Commonwealth under the name of „The Commonwealth of Australia". But the Queen may, at any time after the Proclamation, appoint a Governor-General for the Commonwealth. || IV. The Commonwealth shall be established, and the Constitution of the Commonwealth shall take effect, on and after the day so appointed. But the Parliaments of the

*) Blaubücher Cd. 124, 158, Bill 262.

several Colonies may at any time after the passing of this Act make any such laws, to come into operation on the day so appointed, as they might have made if the Constitution had taken effect at the passing of this Act. || V. This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the Courts, Judges, and people of every State, and of every part of the Commonwealth, notwithstanding anything in the laws of any State; and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth. || VI. „The Commonwealth" shall mean the Commonwealth of Australia as established under this Act. || „Colony" shall mean any Colony or Province. || „The States" shall mean such of the Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, Western Australia, and South Australia, including the Northern Territory of South Australia, as for the time being are parts of the Commonwealth, and such Colonies or Territories as may be admitted into or established by the Commonwealth as States; and each of such parts of the Commonwealth shall be called a „State". || „Original States" shall mean such States as are parts of the Commonwealth at its establishment. || VII. „*The Federal Council of Australasia Act*, 1885", is hereby repealed, but so as not to affect any laws passed by the Federal Council of Australasia and in force at the establishment of the Commonwealth. | Any such law may be repealed as to any State by The Parliament of the Commonwealth, or as to any Colony not being a State by the Parliament thereof. || VIII. After the passing of this Act the „*Colonial Boundaries Act*, 1895", shall not apply to any Colony which becomes a State of the Commonwealth; but the Commonwealth shall be taken to be a self-governing Colony for the purposes of that Act. || IX. The Constitution of the Commonwealth shall be as follows: —

The Constitution.

This Constitution is divided as follows: — || Chapter I. — The Parliament: || Part I. — General: || Part II. — The Senate: || Part III. — The House of Representatives: || Part IV. — Both Houses of The Parliament: || Part V. — Powers of The Parliament: || Chapter II. — The Executive Government: || Chapter III. — The Judicature: || Chapter IV. — Finance and Trade: || Chapter V. — The States: || Chapter VI. — New States: || Chapter VII. — Miscellaneous: || Chapter VIII. — Alteration of the Constitution: || The Schedule.

Chapter I.

The Parliament.

Part I. — General.

1. The legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, a Senate, and a House of Representatives, and which is hereinafter called „The Parliament", or „The Parliament of the Commonwealth". || 2. A Governor-General appointed by the Queen shall be Her Majesty's representative in the Commonwealth, and shall have and may exercise in the Commonwealth during the Queen's pleasure, but subject to this Constitution, such powers and functions of the Queen as Her Majesty may be pleased to assign to him. || 3. There shall be payable to the Queen out of the Consolidated Revenue Fund of the Commonwealth, for the salary of the Governor-General, an annual sum which, until The Parliament otherwise provides, shall be ten thousand pounds. || The salary of a Governor-General shall not be altered during his continuance in office. || 4. The provisions of this Constitution relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the Queen may appoint to administer the Government of the Commonwealth; but no such person shall be entitled to receive any salary from the Commonwealth in respect of any other office during his administration of the Government of the Commonwealth. || 5. The Governor-General may appoint such times for holding the sessions of The Parliament as he thinks fit, and may also from time to time, by Proclamation or otherwise, prorogue The Parliament, and may in like manner dissolve the House of Representatives. || After any general election The Parliament shall be summoned to meet not later than thirty days after the day appointed for the return of the writs. || The Parliament shall be summoned to meet not later than six months after the establishment of the Commonwealth. || 6. There shall be a session of The Parliament once at least in every year, so that twelve months shall not intervene between the last sitting of The Parliament in one session and its first sitting in the next session.

Part II. — The Senate.

7. The Senate shall be composed of senators for each State, directly chosen by the people of the State, voting, until The Parliament otherwise provides, as one electorate. || But until The Parliament of the Commonwealth otherwise provides, the Parliament of the State of Queensland, if that State be an Original State, may make laws dividing the

State into divisions and determining the number of senators to be chosen for each division, and in the absence of such provision the State shall be one electorate. || Until The Parliament otherwise provides there shall be six senators for each Original State. The Parliament may make laws increasing or diminishing the number of senators for each State, but so that equal representation of the several Original States shall be maintained and that no Original State shall have less than six senators. || The senators shall be chosen for a term of six years, and the names of the senators chosen for each State shall be certified by the Governor to the Governor-General. || 8. The qualification of electors of senators shall be in each State that which is prescribed by this Constitution, or by The Parliament, as the qualification for electors of members of the House of Representatives; but in the choosing of senators each elector shall vote only once. || 9. The Parliament of the Commonwealth may make laws prescribing the method of choosing senators, but so that the method shall be uniform for all the States. Subject to any such law, the Parliament of each State may make laws prescribing the method of choosing the senators for that State. || The Parliament of a State may make laws for determining the times and places of elections of senators for the State. || 10. Until The Parliament otherwise provides, but subject to this Constitution, the laws in force in each State, for the time being, relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections of senators for the State. || 11. The Senate may proceed to the despatch of business, notwithstanding the failure of any State to provide for its representation in the Senate. || 12. The Governor of any State may cause writs to be issued for elections of senators for the State. In case of the dissolution of the Senate the writs shall be issued within ten days from the proclamation of such dissolution. || 13. As soon as may be after the Senate first meets, and after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the senators of the first class shall become vacant at the expiration of the third year, and the places of those of the second class at the expiration of the sixth year, from the beginning of their term of service; and afterwards the places of senators shall become vacant at the expiration of six years from the beginning of their term of service. || The election to fill vacant places shall be made in the year at the expiration of which the places are to become vacant. || For the purposes of this section the term of service of a senator shall be taken

to begin on the first day of January following the day of his election, except in the cases of the first election and of the election next after any dissolution of the Senate, when it shall be taken to begin on the first day of January preceding the day of his election. || 14. Whenever the number of senators for a State is increased or diminished, The Parliament of the Commonwealth may make such provision for the vacating of the places of senators for the State as it deems necessary to maintain regularity in the rotation. || 15. If the place of a senator becomes vacant before the expiration of his term of service, the Houses of Parliament of the State for which he was chosen, shall, sitting and voting together, choose a person to hold the place until the expiration of the term, or until the election of a successor as hereinafter provided, whichever first happens. But if the Houses of Parliament of the State are not in session at the time when the vacancy is notified, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of fourteen days after the beginning of the next session of the Parliament of the State, or until the election of a successor, whichever first happens. || At the next general election of members of the House of Representatives, or at the next election of senators for the State, whichever first happens, a successor shall, if the term has not then expired, be chosen to hold the place from the date of his election until the expiration of the term. || The name of any senator so chosen or appointed shall be certified by the Governor of the State to the Governor-General. || 16. The qualifications of a senator shall be the same as those of a member of the House of Representatives. || 17. The Senate shall, before proceeding to the despatch of any other business, choose a senator to be the President of the Senate; and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President. || The President shall cease to hold his office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office or his seat by writing addressed to the Governor-General. || 18. Before or during any absence of the President, the Senate may choose a senator to perform his duties in his absence. || 19. A senator may, by writing addressed to the President, or to the Governor-General if there is no President or if the President is absent from the Commonwealth, resign his place, which thereupon shall become vacant. || 20. The place of a senator shall become vacant if for two consecutive months of any sessions of The Parliament he, without the permission of the Senate, fails to attend the Senate. || 21. Whenever a vacancy happens in the Senate, the President,

or if there is no President or if the President is absent from the Commonwealth, the Governor-General, shall notify the same to the Governor of the State in the representation of which the vacancy has happened. || 22. Until The Parliament otherwise provides, the presence of at least one-third of the whole number of the senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers. || 23. Questions arising in the Senate shall be determined by a majority of votes, and each senator shall have one vote. The President shall in all cases be entitled to a vote; and when the votes are equal the question shall pass in the negative.

Part III. — The House of Representatives.

24. The House of Representatives shall be composed of members directly chosen by the people of the Commonwealth, and the number of such members shall be, as nearly as practicable, twice the number of the senators. || The number of members chosen in the several States shall be in proportion to the respective numbers of their people, and shall, until The Parliament otherwise provides, be determined, whenever necessary, in the following manner: — || (i.) A quota shall be ascertained by dividing the number of the people of the Commonwealth, as shown by the latest statistics of the Commonwealth, by twice the number of the senators. || (ii.) The number of members to be chosen in each State shall be determined by dividing the number of the people of the State, as shown by the latest statistics of the Commonwealth, by the quota; and if on such division there is a remainder greater than one-half of the quota, one more member shall be chosen in the State. || But notwithstanding anything in this section, five members at least shall be chosen in each Original State. || 25. For the purposes of the last section, if by the law of any State all persons of any race are disqualified from voting at elections for the more numerous House of the Parliament of the State, then, in reckoning the number of the people of the State or of the Commonwealth, persons of that race resident in that State shall not be counted. || 26. Notwithstanding anything in section twenty-four the number of members to be chosen in each State at the first election shall be as follows: [*To be determined according to latest statistical returns at the date of the passing of the Act, and in relation to the quota referred to in previous sections.*] || 27. Subject to this Constitution, The Parliament may make laws for increasing or diminishing the number of the members of the House of Representatives. || 28. Every House of Representatives shall continue for three years from the first meeting of the House, and no

longer, but may be sooner dissolved by the Governor-General. || 29. Until The Parliament of the Commonwealth otherwise provides, the Parliament of any State may make laws for determining the divisions in each State for which members of the House of Representatives may be chosen, and the number of members to be chosen for each division. A division shall not be formed out of parts of different States. || In the absence of other provision, each State shall be one electorate. || 30. Until The Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification of electors of the more numerous House of the Parliament of the State; but in the choosing of members each elector shall vote only once. || 31. Until The Parliament otherwise provides, but subject to this Constitution, the laws in force in each State for the time being relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections in the State of members of the House of Representatives. || 32. The Governor-General in Council may cause writs to be issued for general elections of members of the House of Representatives. || After the first general election, the writs shall be issued within ten days from the expiry of a House of Representatives, or from the proclamation of a dissolution thereof. || 33. Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker or if he is absent from the Commonwealth, the Governor-General in Council may issue the writ. || 34. Until The Parliament otherwise provides, the qualifications of a member of the House of Representatives shall be as follows: — || (i.) He must be of the full age of twenty-one years, and must be an elector entitled to vote at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen: || (ii.) He must be a subject of the Queen, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a Colony which has become or becomes a State, or of the Commonwealth, or of a State. || 35. The House of Representatives shall, before proceeding to the despatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker. || The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing address-

ed to the Governor-General. || 36. Before or during any absence of the Speaker, the House of Representatives may choose a member to perform his duties in his absence. || 37. A member may by writing addressed to the Speaker, or to the Governor-General if there is no Speaker or if the Speaker is absent from the Commonwealth, resign his place, which thereupon shall become vacant. || 38. The place of a member shall become vacant if for two consecutive months of any session of The Parliament he, without the permission of the House, fails to attend the House. || 39. Until The Parliament otherwise provides, the presence of at least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers. || 40. Questions arising in the House of Representatives shall be determined by a majority of votes other than that of the Speaker. The Speaker shall not vote unless the numbers are equal, and then he shall have a casting vote.

Part IV. — Both Houses of The Parliament.

41. No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of The Parliament of the Commonwealth. || 42. Every senator and every member of the House of Representatives shall before taking his seat make and suscribe before the Governor-General, or some person authorized by him, an oath or affirmation of allegiance in the form set forth in the Schedule. || 43. A member of either House of The Parliament shall be incapable of being chosen or of sitting as a member of the other House. || 44. Any person who — || (i.) Is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power: or || (ii.) Is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer: or || (iii.) Is an undischarged bankrupt or insolvent: or || (iv.) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth: or || (v.) Has any direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company con-

sisting of more than twenty-five persons: || shall be incapable of being chosen or of sitting as a senator or as a member of the House of Representatives. || But sub-section iv. does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half-pay, or a pension by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth. || 45. If a senator or member of the House of Representatives — || (i.) Becomes subject to any of the disabilities mentioned in the last preceding section: or || (ii.) Takes the benefit, whether by assignment, composition, or otherwise, of any law relating to bankrupt or insolvent debtors: or || (iii.) Directly or indirectly takes or agrees to take any fee or honorarium for services rendered to the Commonwealth, or for services rendered in The Parliament to any person or State: || his place shall thereupon become vacant. || 46. Until The Parliament otherwise provides, any person declared by this Constitution to be incapable of sitting as a senator or as a member of the House of Representatives shall, for every day on which he so sits, be liable to pay the sum of one hundred pounds to any person who sues for it in any court of competent jurisdiction. || 47. Until The Parliament otherwise provides, any question respecting the qualification of a senator or of a member of the House of Representatives, or respecting a vacancy in either House of The Parliament, and any question of a disputed election to either House, shall be determined by the House in which the question arises. || 48. Until The Parliament otherwise provides, each senator and each member of the House of Representatives shall receive an allowance of four hundred pounds a year, to be reckoned from the day on which he takes his seat. || 49. The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the committees of each House, shall be such as are declared by The Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth. || 50. Each House of The Parliament may make rules and orders with respect to — || (i.) The mode in which its powers, privileges, and immunities may be exercised and upheld: || (ii.) The order and conduct of its business and proceedings either separately or jointly with the other House.

Part V. — Powers of The Parliament.

51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to: — || (i.) Trade and commerce with other countries, and among the States: || (ii.) Taxation; but so as not to discriminate between States or parts of States: || (iii.) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth: || (iv.) Borrowing money on the public credit of the Commonwealth: || (v.) Postal, telegraphic, telephonic, and other like services || (vi.) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth: || (vii.) Light-houses, light-ships, beacons and buoys: || (viii.) Astronomical and meteorological observations: || (ix.) Quarantine: || (x.) Fisheries in Australian waters beyond territorial limits: || (xi.) Census and statistics: || (xii.) Currency, coinage, and legal tender: || (xiii.) Banking, other than State banking; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money: || (xiv.) Insurance, other than State Insurance; also State Insurance extending beyond the limits of the State concerned: || (xv.) Weights and measures: || (xvi.) Bills of exchange and promissory notes: || (xvii.) Bankruptcy and insolvency: || (xviii.) Copyrights, patents of inventions and designs, and trade marks: || (xix.) Naturalization and aliens: || (xx.) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth: || (xxi.) Marriage: || (xxii.) Divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants: || (xxiii.) Invalid and old-age pensions: || (xxiv.) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States: || (xxv.) The recognition throughout the Commonwealth of the laws, the public acts and records, and the judicial proceedings of the States: || (xxvi.) The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws: || (xxvii.) Immigration and emigration: || (xxviii.) The influx of criminals: || (xxix.) External affairs: || (xxx.) The relations of the Commonwealth with the islands of the Pacific: || (xxxi.) The acquisition of property on just terms from any State or person for any purpose in respect of which The Parliament has power to make laws: || (xxxii.) The control of railways with respect to transport for the naval and military purposes of the Commonwealth: || (xxxiii.) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the

Commonwealth and the State: || (xxxiv.) Railway construction and extension in any State with the consent of that State: || (xxxv.) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State: || (xxxvi.) Matters in respect of which this Constitution makes provision until The Parliament otherwise provides: || (xxxvii.) Matters referred to The Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law: || (xxxviii.) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of his Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia: || (xxxix.) Matters incidental to the execution of any power vested by this Constitution in The Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature, or in any department or officer of the Commonwealth. || The Parliament shall, subject to this Constitution, have exclusive power to make laws for the peace, order, and good government of the Commonwealth with respect to — || (i.) The seat of government of the Commonwealth, and all places acquired by the Commonwealth for public purposes: || (ii.) Matters relating to any department of the public service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth: || (iii.) Other matters declared by this Constitution to be within the exclusive power of The Parliament.

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law. || The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government. || The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people. || The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications. || Except as provided in

this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws. || 54. The proposed law which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation. || 55. Laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect. || Laws imposing taxation, except laws imposing duties of customs or of excise, shall deal with one subject of taxation only; but laws imposing duties of customs shall deal with duties of customs only, and laws imposing duties of excise shall deal with duties of excise only. || 56. A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor-General to the House in which the proposal originated. || 57. If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time. || If after such dissolution the House of Representatives again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives. || The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives, it shall be taken to have

been duly passed by both Houses of The Parliament, and shall be presented to the Governor-General for the Queen's assent. || 58. When a proposed law passed by both Houses of The Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to this Constitution, that he assents in the Queen's name, or that he withholds assent, or that he reserves the law for the Queen's pleasure. || The Governor-General may return to the House in which it originated any proposed law so presented to him, and may transmit therewith any amendments which he may recommend, and the Houses may deal with the recommendation. || 59. The Queen may disallow any law within one year from the Governor-General's assent, and such disallowance on being made known by the Governor-General by speech or message to each of the Houses of The Parliament, or by Proclamation, shall annul the law from the day when the disallowance is so made known. || 60. A proposed law reserved for the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent the Governor-General makes known, by speech or message to each of the Houses of The Parliament, or by Proclamation, that it has received the Queen's assent.

Chapter II.

The Executive Government.

61. The executive power of the Commonwealth is vested in the Queen, and is exercisable by the Governor-General as the Queen's representative, and extends to the execution an maintenance of this Construction, and of the laws of the Commonwealth. || 62. There shall be a Federal Executive Council to advise the Governor-General in the government of the Commonwealth, and the members of the Council shall be chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure. || 63. The provisions of this Constitution referring to the Governor-General in Council shall be construed as referring to the Governor-General acting with the advice of the Federal Executive Council. || 64. The Governor-General may appoint officers to administer such departments of State of the Commonwealth as the Governor-General in Council may establish. || Such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Federal Executive Council, and shall be the Queen's Ministers of State for the Commonwealth. || After the first general election no Minister of State shall hold office for a longer period than three months unless

he is or becomes a senator or a member of the House of Representatives. || 65. Until The Parliament otherwise provides, the Ministers of State shall not exceed seven in number, and shall hold such offices as The Parliament prescribes, or, in the absence of provision, as the Governor-General directs. || 66. There shall be payable to the Queen, out of the Consolidated Revenue Fund of the Commonwealth, for the salaries of the Ministers of State, an annual sum which, until The Parliament otherwise provides, shall not exceed twelve thousand pounds a year. || 67. Until The Parliament otherwise provides, the appointment and removal of all other officers of the Executive Government of the Commonwealth shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council or by a law of the Commonwealth to some other authority. || 68. The command in chief of the naval and military forces of the Commonwealth is vested in the Governor-General as the Queen's representative. || 69. On a date or dates to be proclaimed by the Governor-General after the establishment of the Commonwealth the following departments of the public service in each State shall become transferred to the Commonwealth: || Posts, telegraphs, and telephones: || Naval and military defence: || Lighthouses, lightships, beacons, and buoys: || Quarantine. || But the departments of customs and of excise in each State shall become transferred to the Commonwealth on its establishment. || 70. In respect of matters which, under this Constitution, pass to the Executive Government of the Commonwealth, all powers and functions which at the establishment of the Commonwealth are vested in the Governor of a Colony, or in the Governor of a Colony with the advice of his Executive Council, or in any authority of a Colony, shall vest in the Governor-General, or in the Governor-General in Council, or in the authority exercising similar powers under the Commonwealth, as the case requires.

Chapter III.

The Judicature.

71. The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as The Parliament creates, and in such other courts as it invests with federal jurisdiction. The High Court shall consist of a Chief Justice, and so many other Justices, not less than two, as The Parliament prescribes. || 72. The Justices of the High Court and of the other courts created by The Parliament — || (i.) Shall be appointed by the Governor-General in Council: || (ii.) Shall not be removed except by the Governor-General in Council, on an address from both Houses of

The Parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity. || (iii.) Shall receive such remuneration as The Parliament may fix; but the remuneration shall not be diminished during their continuance in office. || 73. The High Court shall have jurisdiction, with such exceptions and subject to such regulations as The Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders and sentences — || (i.) Of any Justice or Justices exercising the original jurisdiction of the High Court: || (ii.) Of any other federal court, or court exercising federal jurisdiction; or of the Supreme Court of any State, or of any other court of any State from which at the establishment of the Commonwealth an appeal lies to the Queen in Council: || (iii.) Of the Inter-State Commission, but as to questions of law only — || and the judgment of the High Court in all such cases shall be final and conclusive. || But no exception or regulation prescribed by The Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter in which at the establishment of the Commonwealth an appeal lies from such Supreme Court to the Queen in Council. || Until The Parliament otherwise provides, the conditions of and restrictions on appeals to the Queen in Council from the Supreme Courts of the several States shall be applicable to appeals from them to the High Court. || 74. No appeal shall be permitted to the Queen in Council in any matter involving the interpretation of this Constitution or for the Constitution of a State, unless the public interests of some part of Her Majesty's Dominions, other than the Commonwealth or a State, are involved. || Except as provided in this section, this Construction shall not impair any right which the Queen may be pleased to exercise, by virtue of Her Royal Prerogative, to grant special leave of appeal from the High Court to Her Majesty in Council. But The Parliament may make laws limiting the matters in which such leave may be asked. || 75. In all matters — || (i.) Arising under any treaty: || (ii.) Affecting consuls or other representatives of other countries: || (iii.) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party: || (iv.) Between States, or between residents of different States, or between a State and a resident of another State: || (v.) In which a writ of mandamus or prohibition or an injunction is sought against an officer of the Commonwealth: || the High Court shall have original jurisdiction. || 76. The Parliament may make laws conferring original jurisdiction on the High Court in any matter — || (i.) Arising under this Constitution, or involving its interpretation: || (ii,) Arising under any laws made by The Parlia-

ment: || (iii.) Of Admiralty and maritime jurisdiction: || (iv.) Relating to the same subject-matter claimed under the laws of different States. || 77. With respect to any of the matters mentioned in the last two sections The Parliament may make laws — || (i.) Defining the jurisdiction of any federal court other than the High Court: || (ii.) Defining the extent to which the jurisdiction of any federal court shall be exclusive of that which belongs to or is vested in the courts of the States: || (iii.) Investing any court of a State with federal jurisdiction. || 78. The Parliament may make laws conferring rights to proceed against the Commonwealth or a State in respect of matters within the limits of the judicial power. || 79. The federal jurisdiction of any court may be exercised by such number of judges as The Parliament prescribes. || 80. The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as The Parliament prescribes.

Chapter IV.

Finance and trade.

81. All revenues or moneys raised or received by the Executive Government of the Commonwealth shall form one Consolidated Revenue Fund, to be appropriated for the purposes of the Commonwealth in the manner and subject to the charges and liabilities imposed by this Constitution. || 82. The costs, charges, and expenses incident to the collection, management, and receipt of the Consolidated Revenue Fund shall form the first charge thereon; and the revenue of the Commonwealth shall in the first instance be applied to the payment of the expenditure of the Commonwealth. || 83. No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law. || But until the expiration of one month after the first meeting of The Parliament the Governor-General in Council may draw from the Treasury and expend such moneys as may be necessary for the maintenance of any department transferred to the Commonwealth and for the holding of the first elections for The Parliament. || 84. When any department of the public service of a State becomes transferred to the Commonwealth, all officers of the department shall become subject to the control of the Executive Government of the Commonwealth. || Any such officer who is not retained in the service of the Commonwealth shall, unless he is appointed to some other office of equal emolument in the public service of the State, be entitled to receive from the State any pension, gratuity, or other compen-

sation payable under the law of the State on the abolition of his office. || Any such officer who is retained in the service of the Commonwealth shall preserve all his existing and accruing rights, and shall be entitled to retire from office at the time, and on the pension or retiring allowance, which would be permitted by the law of the State if his service with the Commonwealth were a continuation of his service with the State. Such pension or retiring allowance shall be paid to him by the Commonwealth; but the State shall pay to the Commonwealth a part thereof, to be calculated on the proportion which his term of service with the State bears to his whole term of service, and for the purpose of the calculation his salary shall be taken to be that paid to him by the State at the time of the transfer. || Any officer who is, at the establishment of the Commonwealth, in the public service of a State, and who is, by consent of the Governor of the State with the advice of the Executive Council thereof, transferred to the public service of the Commonwealth, shall have the same rights as if he had been an officer of a department transferred to the Commonwealth and were retained in the service of the Commonwealth. || 85. When any department of the public service of a State is transferred to the Commonwealth — || (i)All property of the State of any kind, used exclusively in connection with the department, shall become vested in the Commonwealth; but, in the case of the departments controlling customs and excise and bounties, for such time only as the Governor-General in Council may declare to be necessary. || (ii.) The Commonwealth may acquire any property of the State, of any kind, used, but not exclusively used, in connection with the department; the value thereof shall, if no agreement can be made, be ascertained in, as nearly as may be, the manner in which the value of land, or of an interest in land, taken by the State for public purposes is ascertained under the law of the State in force at the establishment of the Commonwealth. || (iii.) The Commonwealth shall compensate the State for the value of any property passing to the Commonwealth under this section; if no agreement can be made as to the mode of compensation, it shall be determined under laws to be made by The Parliament. || (iv.) The Commonwealth shall, at the date of the transfer, assume the current obligations of the State in respect of the department transferred. || 86. On the establishment of the Commonwealth, the collection and control of duties of customs and of excise, and the control of the payment of bounties, shall pass to the Executive Government of the Commonwealth. || 87. During a period of ten years after the establishment of the Commonwealth and thereafter until The Parliament otherwise provides of the net revenue of the Commonwealth from duties of customs and of excise, not

more than one-fourth shall be applied annually by the Commonwealth towards its expenditure. || The balance shall, in accordance with this Constitution, be paid to the several States, or applied towards the payment of interest on debts of the several States taken over by the Commonwealth. || 88. Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth. || 89. Until the imposition of uniform duties of customs — || (i.) The Commonwealth shall credit to each State the revenues collected therein by the Commonwealth. (ii.) The Commonwealth shall debit to each State — || (*a*) The expenditure therein of the Commonwealth incurred solely for the maintenance or continuance, as at the time of transfer, of any department transferred from the State to the Commonwealth. || (*b*) The proportion of the State, according to the number of its people, in the other expenditure of the Commonwealth. || (iii) The Commonwealth shall pay to each State month by month the balance (if any) in favour of the State. || 90. On the imposition of uniform duties of customs the power of The Parliament to impose duties of customs and of excise, and to grant bounties on the production or export of goods, shall become exclusive. || On the imposition of uniform duties of customs all laws of the several States imposing duties of customs or of excise, or offering bounties on the production or export of goods, shall cease to have effect; but any grant of or agreement for any such bounty lawfully made by or under the authority of the Government of any State shall be taken to be good if made before the thirtieth day of June, One thousand eight hundred and ninety-eight, and not otherwise. || 91. Nothing in this Constitution prohibits a State from granting any aid to or bounty on mining for gold, silver, or other metals, nor from granting, with the consent of both Houses of the Parliament of the Commonwealth expressed by resolution, any aid to or bounty on the production or export of goods. || 92. On the imposition of uniform duties of customs, trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free. || But notwithstanding anything in this Constitution, goods imported before the imposition of uniform duties of customs into any State, or into any Colony which, whilst the goods remain therein, becomes a State, shall, on thence passing into another State within two years after the imposition of such duties, be liable to any duty chargeable on the importation of such goods into the Commonwealth, less any duty paid in respect of the goods on their importation. || 93. During the first five years after the imposition of uniform duties of customs, and thereafter until The Parliament otherwise provides — || (i.) The duties of customs chargeable on

goods imported into a State and afterwards passing into another State for consumption, and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption, shall be taken to have been collected not in the former but in the latter State: || (ii.) Subject to the last subsection, the Commonwealth shall credit revenue, debit expenditure, and pay balances to the several States as prescribed for the period preceding the imposition of uniform duties of customs. || 94. After five years from the imposition of uniform duties of customs, The Parliament may provide, on such basis as it deems fair, for the monthly payment to the several States of all surplus revenue of the Commonwealth. || 95. Notwithstanding anything in this Constitution, the Parliament of the State of Western Australia may, during the first five years after the imposition of uniform duties of customs, impose duties of customs on goods passing into that State and not originally imported from beyond the limits of the Commonwealth; and such duties shall be collected by the Commonwealth. || But any duty so imposed on any goods shall not exceed during the first of such years the duty chargeable on the goods under the law of Western Australia in force at the imposition of uniform duties, and shall not exceed during the second, third, fourth, and fifth of such years respectively, four-fifths, three-fifths, two-fifths, and one-fifth of such latter duty, and all duties imposed under this section shall cease at the expiration of the fifth year after the imposition of uniform duties. || If at any time during the five years the duty on any goods under this section is higher than the duty imposed by the Commonwealth on the importation of the like goods, then such higher duty shall be collected on the goods when imported into Western Australia from beyond the limits of the Commonwealth. || 96. During a period of ten years after the establishment of the Commonwealth and thereafter until The Parliament otherwise provides, The Parliament may grant financial assistance to any State on such terms and conditions as The Parliament thinks fit. || 97. Until The Parliament otherwise provides, the laws in force in any Colony which has become or becomes a State with respect to the receipt of revenue and the expenditure of money on account of the Government of the Colony, and the review and audit of such receipt and expenditure, shall apply to the receipt of revenue and the expenditure of money on account of the Commonwealth in the State in the same manner as if the Commonwealth, or the Government or an officer of the Commonwealth, were mentioned whenever the Colony, or the Government or an officer of the Colony, is mentioned. || 98. The power of The Parliament to make laws with respect to trade and com-

merce extends to navigation and shipping, and to railways the property of any State. || 99. The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof. || 100. The Commonwealth shall not, by any law or regulation of trade or commerce, abrigde the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation. || 101. There shall be an Inter-State Commission, with such powers of adjudication and administration as The Parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of this Constitution relating to trade and commerce, and of all laws made thereunder. || 102. The Parliament may by any law with respect to trade or commerce forbid, as to railways, any preference or discrimination by any State, or by any authority constituted under a State, if such preference or discrimination is undue and unreasonable, or unjust to any State: due regard being had to the financial responsibilities incurred by any State in connection with the construction and maintenance of its railways. But no preference or discrimination shall, within the meaning of this section, be taken to be undue and unreasonable, or unjust to any State, unless so adjudged by the Inter-State Commission. || 103. The members of the Inter-State Commission — || (i.) Shall be appointed by the Governor-General in Council: || (ii.) Shall hold office for seven years, but may be removed within that time by the Governor-General in Council, on an address from both Houses of The Parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity: (iii.) Shall receive such remuneration as The Parliament may fix; but such remuneration shall not be diminished during their continuance in office. || 104. Nothing in this Constitution shall render unlawful any rate for the carriage of goods upon a railway, the property of a State, if the rate is deemed by the Inter-State Commission to be necessary for the development of the territory of the State, and if the rate applies equally to goods within the State and to goods passing into the State from other States. || 105. The Parliament may take over from the States their public debts as existing at the establishment of the Commonwealth, or a proportion thereof according to the respective numbers of their people as shown by the latest statistics of the Commonwealth, and may convert, renew, or consolidate such debts, or any part thereof; and the States shall indemnify the Commonwealth in respect of the debts taken over, and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the

Commonwealth payable to the several States, or if such surplus is insufficient, or if there is no surplus, then the deficiency or the whole amount shall be paid by the several States.

Chapter V.

The States.

106. The Constitution of each State of the Commonwealth shall, subject to this Constitution, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the Constitution of the State. || 107. Every power of the Parliament of a Colony which has become or becomes a State, shall, unless it is by this Constitution exclusively vested in The Parliament of the Commonwealth or withdrawn from the Parliament of the State, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be. || 108. Every law in force in a Colony which has become or becomes a State, and relating to any matter within the powers of The Parliament of the Commonwealth, shall, subject to this Constitution, continue in force in the State; and, until provision is made in that behalf by The Parliament of the Commonwealth, the Parliament of the State shall have such powers of alteration and of repeal in respect of any such law as the Parliament of the Colony had until the Colony became a State. || 109. When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid. || 110. The provisions of this Constitution relating to the Governor of a State extend and apply to the Governor for the time being of the State, or other chief executive officer or administrator of the government of the State. || 111. The Parliament of a State may surrender any part of the State to the Commonwealth; and upon such surrender, and the acceptance thereof by the Commonwealth, such part of the State shall become subject to the exclusive jurisdiction of the Commonwealth. || 112. After uniform duties of customs have been imposed, a State may levy on imports or exports, or on goods passing into or out of the State, such charges as may be necessary for executing the inspection laws of the State; but the net produce of all charges so levied shall be for the use of the Commonwealth; and any such inspection laws may be annulled by The Parliament of the Commonwealth. || 113. All fermented, distilled, or other intoxicating liquids passing into any State or remaining therein for use, consumption, sale, or storage shall be subject to the laws of the State as if such liquids

had been produced in the State. || 114. A State shall not, without the consent of The Parliament of the Commonwealth, raise or maintain any naval or military force, or impose any tax on property of any kind belonging to the Commonwealth, nor shall the Commonwealth impose any tax on property of any kind belonging to a State. || 115. A State shall not coin money, nor make anything but gold and silver coin a legal tender in payment of debts. || 116. The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth. || 117. A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State. || 118. Full faith and credit shall be given, throughout the Commonwealth, to the laws, the public acts and records, and the judicial proceedings, of every State. || 119. The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence. || 120. Every State shall make provision for the detention in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and for the punishment of persons convicted of such offences, and The Parliament of the Commonwealth may make laws to give effect to this provision.

Chapter VI.

New States.

121. The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of The Parliament, as it thinks fit. || 122. The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of The Parliament to the extent and on the terms which it thinks fit. || 123. The Parliament of the Commonwealth may, with the consent of the Parliament of a State, and the approval of the majority of the electors of the State voting upon the question, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed on, and may,

with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected. || 124. A new State may be formed by separation of territory from a State, but only with the consent of the Parliament thereof, and a new State may be formed by the union of two or more States or parts of States, but only with the consent of the Parliaments of the States affected.

Chapter VII.

Miscellaneous.

125. The seat of Government of the Commonwealth shall be determined by The Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth, and if New South Wales be an Original State shall be in that State and be distant not less than one hundred miles from Sydney. || Such territory shall contain an area of not less than one hundred square miles and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor. || If Victoria be an Original State, The Parliament shall sit at Melbourne until it meets at the seat of Government. || 126. The Queen may authorize the Governor-General to appoint any person, or any persons jointly or severally, to be his deputy or deputies within any part of the Commonwealth, and in that capacity to exercise during the pleasure of the Governor-General such powers and functions of the Governor-General as he thinks fit to assign to such deputy or deputies, subject to any limitations expressed or directions given by the Queen; but the appointment of such deputy or deputies shall not affect the exercise by the Governor-General himself of any powers or function. || 127. In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted.

Chapter VIII.

Alteration of the Constitution.

128. This Constitution shall not be altered except in the following manner: — || The proposed law for the alteration thereof must be passed by an absolute majority of each House of The Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives. || But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it or passes

it with any amendment to which the first-mentioned House will not agree, and if after an interval of three months the first-mentioned House in the same or the next Session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses, to the electors in each State qualified to vote for the election of the House of Representatives. || When a proposed law is submitted to the electors the vote shall be taken in such manner as The Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails. || And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent. || No alteration diminishing the proportionate representation of any State in either House of The Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law.

The Schedule.

Oath.

I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law. So help me God!

Affirmation.

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law.

(Note. — The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time.)

Nr. 13133. **AUSTRALISCHE KOLONIEN.** — Adressen der Kolonien an die Königin über die Bundesverfassung.

August—Oktober 1899.

No. 1.

South Australia.

May it please Your Majesty — || We, Your Majesty's dutiful and loyal subjects, Members of the Legislative Council of South Australia, in Parliament assembled, approach Your Majesty with assurances of our loyalty and sincere attachment to Your Majesty's Throne and Person. || We humbly pray Your Majesty to be pleased to cause a measure to be submitted to the Imperial Parliament for passing into Law the Federal Constitution for Australasia which has been accepted by the Colonies of New South Wales, Victoria, South Australia, and Tasmania.

Legislative Council, South Australia.

August 8, 1899. R. C. Baker, President.

House of Assembly, South Australia.

Jenkin Coles, Speaker.

August 3, 1899. F. Halcomb, Clerk.

No. 2.

Victoria.

May it please Your Majesty — || We, Your Majesty's loyal subjects, the Members of the Legislative Council and the Members of the Legislative Assembly of Victoria, in Parliament assembled, approach Your Majesty with assurances of loyal attachment to Your Throne and Person. We humbly desire to lay before Your Majesty: — || 1. That, pursuant to legislation passed by the Parliaments of New South Wales, Victoria, South Australia, Tasmania, and Western Australia, a Convention of Representatives of the Colonies named met during the years 1897 and 1898, and framed a Draft Federal Constitution in the form of a Bill for enactment by the Imperial Parliament. || 2. That in the beginning of the present year the Prime Ministers of the Colonies named and the Prime Minister of Queensland in Conference assembled amended the said Draft Federal Constitution in certain respects. || 3. That subsequently Federation Enabling Acts were passed by the Parliaments of New South Wales, Victoria, Queensland, South Australia, and Tasmania, and those Acts provided for the submission of the Federal Constitution, drafted and amended as aforesaid, to the Electors of New South Wales, Victoria, Queensland, South Australia, and Tasmania for acceptance or rejection. ||

4. That the Electors of New South Wales, Victoria, South Australia, and Tasmania have accepted the said Constitution as amended, and a vote of the people of Queensland will be taken on the 2nd September next. || 5. That the „Victorian Australasian Federation Enabling Act, 1896“, No. 1 443, provides as follows: — || Section 37 — || „If two Colonies in addition to Victoria accept the Constitution, the Legislative Council and the Legislative Assembly of Victoria may adopt a joint Address to the Queen praying that the Constitution may be passed into law by the Imperial Parliament upon receipt from the Parliaments of such two Colonies either of similar joint or separate Addresses from each House at such Parliaments.“ || Section 38 — || „When such joint Address has been agreed to, pursuant to the preceding section, the same shall be transmitted to the Queen with a certified copy of the Constitution.“ || 6. That by the „Victorian Australasian Federation Enabling Act, 1899“, No. 1 603, which amended Act No. 1 443, called therein the Principal Act, it is provided as follows: — || „This Act shall be incorporated with the Principal Act, and, except so far as inconsistent with this Act or inapplicable thereto, the provisions of the Principal Act relating to the submission of the Constitution to the Electors and its transmission to the Queen for legislative enactment by the Imperial Parliament shall *mutatis mutandis* apply to the Constitution as proposed to be amended in the particulars appearing in the First Schedule to this Act.“ || „The Constitution as proposed to be amended in the particulars appearing in the First Schedule to this Act and as set forth in the Second Schedule to this Act shall — || (*a*) be submitted to the Electors for the Legislative Assembly in Victoria for acceptance or rejection by direct vote, and, if accepted by a majority of the Electors voting, may, afterwards, || (*b*) be transmitted by both Houses of Parliament to the Queen for legislative enactment by the Imperial Parliament.“ || 7. In pursuance of these powers we, Your Majesty's most dutiful and loyal subjects, transmit to Your Majesty the said Constitution and the said Constitution amended as aforesaid, and pray that, upon the transmission to Your Majesty of joint or separate Addresses from the Houses of Parliament of two or more of the other Colonies, namely, New South Wales, Queensland, South Australia, Tasmania, and Western Australia, Your Majesty may be pleased to cause the accompanying Constitution, amended as aforesaid, to be submitted to the Imperial Parliament that it may be passed into law by the Imperial Parliament for the establishment of an Australian Commonwealth composed of those Colonies which unite with Victoria in a similar prayer to Your Majesty. || All of which we, the Members of the Le-

gislative Council and the Members of the Legislative Assembly of Victoria humbly pray Your Majesty to take into Your gracious and favourable consideration.

W. A. Zeal, President.
F. C. Mason, Speaker.

No. 3.

New South Wales.

May it please Your Majesty — || We, Your Majesty's loyal subjects, the Members of the Legislative Council of New South Wales, in Parliament assembled, approach Your Majesty with assurances of loyal attachment to your Throne and Person. || We humbly desire to lay before Your Majesty: — || 1. That pursuant to legislation passed by the Parliaments of New South Wales, Victoria, South Australia, Tasmania, and Western Australia, a Convention of Representatives of the Colonies named met and framed a Draft Federal Constitution during the years 1897 and 1898. || 2. That in the beginning of the present year the Prime Ministers of the Colonies named, and the Prime Minister of Queensland, in Conference assembled, amended the said Draft Federal Constitution in certain respects. || 3. That subsequently Federal Enabling Acts were passed by the Parliaments of New South Wales, Victoria, Queensland, South Australia, and Tasmania, and those Acts provided for the submission of the Federal Constitution, drafted and amended as aforesaid, to the Electors of New South Wales, Victoria, Queensland, South Australia, and Tasmania, for acceptance or rejection. || 4. That the Electors of New South Wales, Victoria, South Australia, and Tasmania have accepted the said Constitution as amended. The vote of the people of Queensland will be taken on the 2nd September next. || 5. That the Federal Enabling Act of New South Wales, which was passed during the month of April last, provided as follows: — || „If two Colonies, in addition to New South Wales, accept the Constitution, both Houses of Parliament may adopt Addresses to the Queen, praying that the Constitution may be passed into law by the Imperial Parliament upon receipt of similar Addresses from the Parliaments of two such Colonies, and the Addresses so adopted shall be forthwith transmitted to the Queen, with a certified copy of the Constitution." || 6. In pursuance of those powers, we, Your Majesty's most dutiful and loyal subjects, pray that upon the transmission to Your Majesty of an Address from the Legislative Assembly of New South Wales to the same effect, and of similar Addresses from the Parliaments of two or more of the other Colonies, namely, Victoria, Queensland, South Australia, Tasmania, and Western Australia, Your Majesty may be pleased to cause the accom-

panying Constitution to be submitted to the Imperial Parliament for the establishment of an Australian Commonwealth composed of those Colonies which unite with New South Wales in a similar prayer to Your Majesty. || All which we, the Members of the Legislative Council of New South Wales, humbly pray Your Majesty to take into Your gracious and favourable consideration.

On behalf and in the name of the Legislative Council,

John Lackey, President,

John J. Calvert, Clerk of the Parliaments.

17th August, 1899.

On behalf and in the name of the Legislative Assembly,

J. P. Abbott, Speaker,

F. W. Webb, Clerk.

9th August, 1899.

No. 4.

Tasmania.

May it Please Your Majesty — || We, your Majesty's loyal Subjects, the Members of the House of Assembly of Tasmania, in Parliament assembled, approach Your Majesty with assurances of loyal attachment to Your Throne and Person. || We humbly desire to lay before Your Majesty — | 1. That, pursuant to legislation passed by the Parliaments of New South Wales, Victoria, South Australia, Tasmania, and Western Australia, a Convention of Reprensentatives of the Colonies named met and framed a Draft Federal Constitution during the years 1897 and 1898. || 2. That in the beginning of the present year the Prime Ministers of the Colonies named, and the Prime Minister of Queensland, in Conference assembled, amended the said Draft Federal Constitution in certain respects. || 3. That subsequently Federal Enabling Acts were passed by the Parliaments of New South Wales, Victoria, Queensland, South Australia, and Tasmania, and such Acts provided for the submission of the Federal Constitution, drafted and amended as aforesaid, to the Electors of New South Wales, Victoria, Queensland, South Australia, and Tasmania, for acceptance or rejection. || 4. That the Electors of New South Wales, Victoria, South Australia, and Tasmania have accepted the said Constitution as amended. The vote of the people of Queensland will be taken on the Second September next. || 5. That the Federal Enabling Act of Tasmania, which was passed during the month of January, 1896, provided as follows: — „If two Colonies in addition to Tasmania accept the Constitution, both Houses of Parliament may adopt Adresses to the Queen praying that the Constitution may be passed into law by the Imperial Parliament upon receipt

of similar Adresses from the Parliaments of two such Colonies, and the Address so adopted shall be forthwith transmitted to the Queen with a certified copy of the Constitution." || 6. In pursuance of those Powers we, Your Majesty's most dutiful and loyal subjects, pray, that upon the transmission to Your Majesty of an Address from the Legislative Council of Tasmania to the same effect, and of similar Adresses from the Parliaments of two or more of the other Colonies, namely, New South Wales, Victoria, Queensland, South Australia, and Western Australia, Your Majesty may be pleased to cause the accompanying Constitution to be submitted to the Imperial Parliament for the establishment of an Australian Commonwealth composed of those Colonies which unite with Tasmania in a similar prayer to Your Majesty. || All which we, the Members of the House of Assembly of Tasmania, humbly pray Your Majesty to take into Your gracious and favourable consideration.

On behalf and in the name of the House of Assembly,

Nicholas J. Brown, Speaker.

Passed the House of Assembly this 8th day of August, 1899.
John Kindston Reid, Clerk of the House.

No. 5.

Tasmania.

May it Please Your Majesty. || We, your Majesty's loyal Subjects, the Members of the Legislative Council of Tasmania, in Parliament assembled, approach Your Majesty with assurances of loyal attachment to Your Throne and Person. || We humbly desire to lay before Your Majesty — || 1. That, pursuant to legislation by the Parliaments of New South Wales, Victoria, South Australia, Tasmania, and Western Australia, a Convention of Representatives of the Colonies named met and framed a Draft Federal Constitution during the years 1897 and 1898. || 2. That in the beginning of the present year the Prime Ministers of the Colonies named, and the Prime Minister of Queensland, in Conference assembled, agreed to suggest Amendments in the said Draft Federal Constitution in certain respects. || 3. That subsequently Federal Enabling Acts were passed by the Parliaments of New South Wales, Victoria, Queensland, South Australia, and Tasmania, and such Acts provided for the submission of the Federal Constitution, amended as aforesaid, to the Electors of New South Wales, Victoria, Queensland, South Australia, and Tasmania, for acceptance or rejection. || 4. That the Electors of New South Wales, Victoria, South Australia and Tasmania have accepted the said Constitution as amended.

The vote of the people of Queensland will be taken on the Second September next. || 5. That, under the provisions of the Australasian Federation Enabling Act (Tasmania), 1896, and of the Australasian Federation Enabling Act, 1899, two Colonies in addition to Tasmania having accepted the Constitution, the Houses of Parliament of Tasmania are empowered to adopt Adresses to the Queen praying that the Constitution may be passed into law by the Imperial Parliament. || 6. In pursuance of these Powers we, Your Majesty's most dutiful and loyal subjects, transmit to Your Majesty the said Constitution and the said Constitution amended as aforesaid, and pray that, upon the transmission to Your Majesty of an Address from the House of Assembly of Tasmania to the same effect, and of joint or separate Addresses from the Houses of Parliament of two or more of the other Colonies, namely, New South Wales, Queensland, South Australia, Victoria, and Western Australia, Your Majesty may be pleased to cause the accompanying Constitution, amended as aforesaid, to be submitted to the Imperial Parliament, that it may be passed into law by the Imperial Parliament for the establishment of an Australian Federal Commonwealth composed of those Colonies which unite with Tasmania in a similar prayer to Your Majesty. || All which we, the Legislative Council of Tasmania, humbly pray Your Majesty to take into Your gracious and favourable consideration.

Adye Douglas, President of the Council.

Passed the Legislative Council this 23rd day of August, 1899.
E. C. Nowell, Clerk of the Council.

No. 6.

Queensland.

We, Your Majesty's most faithful subjects, the Members of the Legislative Council of the Colony of Queensland in Parliament assembled, Humbly Represent to Your Majesty — || 1. That we approach Your Majesty with the assurance of our devoted loyalty to Your Majesty's Throne and Person. || 2. That, pursuant to legislation passed by the Parliaments of New South Wales, Victoria, South Australia, Tasmania, and Western Australia, a convention of representatives of the Colonies named met, during the years 1897 and 1898, and framed a draft of a Federal Constitution for Australasia. || 3. That in the beginning of the present year the Prime Ministers of the Colonies named, and the Prime Minister of Queensland, in conference assembled, amended the said draft Federal Constitution in certain respects. || 4. That subsequently the Parliaments

of New South Wales, Victoria, Queensland, South Australia, and Tasmania severally passed a federal Enabling Act, which provided for the submission of the Federal Constitution, so drafted and amended as aforesaid, to the electors of the said Colonies respectively for acceptance or rejection. | 5. That the electors of New South Wales, Victoria, Queensland, South Australia, and Tasmania have accepted the said federal Constitution so drafted and amended as aforesaid. || 6. That the „Australasian Federation Enabling Act (Queensland), 1899", being the Federal Enabling Act passed as aforesaid by the Parliament of Queensland contains the following provision: — || „If two Colonies, of which New South Wales shall be one, in addition to Queensland, accept the Constitution, the Legislative Council and Legislative Assembly may adopt Addresses to the Queen, praying that the Constitution may be submitted for enactment by the Parliament of the United Kingdom of Great Britain and Ireland subject to the adoption of similar Addresses by the Parliaments of such two Colonies. || „When such Addresses have been adopted they shall be transmitted to the Queen with a certified copy of the Constitution." || 7. That the Constitution in the next preceding paragraph mentioned is the said Federal Constitution so drafted and amended as aforesaid. || 8. That the Parliaments of the said Colonies of New South Wales, Victoria, South Australia, and Tasmania have adopted Addresses to Your Majesty of a similar nature to those mentioned in the provisions set out in the sixth paragraph hereof. || We therefore humbly pray that Your Majesty will be graciously pleased to take the premises into your Royal consideration, and to cause the said Constitution, of which the accompanying is a certified copy, to be submitted for enactment by the Parliament of the United Kingdom of Great Britain and Ireland, and that Your Majesty will be graciously pleased to cause all other necessary steps to be taken for the establishment of an Australian Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the said Constitution, consisting of Queensland and all those other Australasian Colonies whose Parliaments similarly pray Your Majesty. || And your Petitioners, as in duty bound, will ever pray.

On behalf in the name of the Legislative Council,

Hugh M. Nelson,

Legislative Council Chamber, President.

On behalf and in the name of the Legislative Assembly,

Arthur Morgan,

Speaker.

Nr. 13134. **AUSTRALISCHE KOLONIEN.** — Die Delegierten der Kolonien in London an den Kolonialminister. Denkschrift zur Begründung des Verfassungsentwurfs.

As a preliminary to a further interview with the Right Honourable the Secretary of State for the Colonies, the Delegates appointed in pursuance of his invitation and under resolutions of the Conference of Premiers (copy appended, marked A) held in Sydney in January last, deem it well to put in writing some of the reasons which, in their opinion, justify them in strongly urging that the „Commonwealth of Australia Constitution Bill" may be introduced and passed into law in the form in which it was affirmed last year by large majorities of the electors of the Colonies of New South Wales, Victoria, Queensland, South Australia and Tasmania. They are further impelled to this course by the force with which the Law Officers of the Crown have explained the views which, as they believe, render it desirable that some alterations should be made. The Delegates are also encouraged in this fuller expression of their views by the great kindness with which their representations have been invited and received. || While it is open to them to defend by argument the provisions in which it seems to be contemplated to propose alterations, the Delegates are necessarily precluded by the vote of the Australian majority from even appearing to treat with acquiescence the suggestion that any amendment is necessary. Seeing that they are directly instructed by unanimous resolution of the Premiers of their several Colonies to act together in expressing the earnest objection of the Australian people to any alteration of that which a vote so great and so emphatic has ratified, they are bound at the outset to make it an urgent though respectful request to the Secretary of State that the measure as a whole may be submitted to Parliament in the form in which it was transmitted by the five Legislatures immediately concerned, covered by loyal addresses from each of them praying that Her Majesty might be pleased to cause it to be so submitted. They conceive that the only complete assent which can be given to the addresses mentioned is to leave the text of the Bill intact both at and after its introduction. It is the Bill as it now stands, and no other, under which, as the preamble truthfully recites, the people of five loyal Colonies have agreed to unite. That recital would not be justified if something or anything were either introduced or passed to which those Colonies have not agreed. It is that agreement of the people which is the root of the tree of union, and anything which

strikes at the root endangers the whole tree. The Delegates therefore submit that the federating Colonies are morally entitled to have the whole Bill laid before Parliament in the very form in which it stood when the votes of the people, affirming it, constituted it the Australian agreement. || The Delegates have been asked whether, assuming that Imperial alterations are nevertheless to be embodied in this Australian agreement before its presentation to Parliament, it is in their opinion preferable that such changes should find place in the portion of the Bill colloquially called the „covering clauses“ or in the portion proposed to be called „the Schedule“. If their answer were to be read by those whom they represent as in any way an acquiescence in amendments, it is obvious that they would have no authority from Australia to answer such a question. But knowing that the question is not for a moment intended to produce any such impression, they would reply that they recognise that an alteration may, so far as its sense is concerned, be just as well placed in one part of the measure as another, inasmuch as the covering clauses and the Schedule must necessarily be read together. No doubt it would — in appearance — be the less objectionable method to place such alterations in the covering clauses. The result, however, of leaving the Schedule intact, while altering the covering clauses, would be the same, as the meaning and effect of the instrument would still be changed, and the substance of the objection would remain. But the question appears to the Delegates to be significant. If there is hesitation to place alterations in the Schedule rather than in another part of that whole which is the Agreement recited at the very outset, is it not because the change of meaning involved appears less striking in the one part of the instrument than in the other? Surely the question of alteration ought not to depend on such a consideration when the result in each case is identical. The Delegates submit with equal confidence and respect that it is quite clear on examination how vitally the provisions of the Schedule may be, and are likely to be, altered by amendments placed in the „covering clauses“: and therefore that the agreement is none the less altered although the place chosen for the alteration shews the greatest disposition to treat the parties to the agreement with all courtesy and kindness, — a disposition which it is scarcely necessary to say will be highly appreciated, but which the Queen's subjects in Australia will consider much less satisfactory than the holding sacred here of a compact held sacred there. || Copies of the appended paper (marked B) have been handed to the Delegates to indicate the amendments which are foreshadowed as possibly to be embodied by Her Majesty's Govern-

ment in the „covering clauses“. ‖ Taking first, for reasons of convenience, the proposal to declare the laws of the Commonwealth to be „Colonial Laws“ within the meaning of the Colonial Laws Validity Act of 1865 (28 & 29 Vict. c. 63), the Delegates may be permitted to say that they agree in the opinion that a declaratory amendment of this kind relating to an Imperial Act would be looked for rather in the covering clauses than in the Schedule. But they are asked further whether it is in their view to be preferred that this declaration should be made by separate enactment or that it should, as indicated by the annexure, appear in the Bill? Guarding themselves as before against possible misapprehension elsewhere, they would reply, without admitting the necessity of any amendment, that a separate enactment appears to be a better vehicle for such a declaration than the measure itself. They cannot, however, refrain from expressing the view that the meaning of the Bill is clear without any such legislative explanation. The doubt expressed by the law advisers of the Crown arises, as they have explained, from the presence in Clause VI. of the words „Colony shall mean any Colony or Province“. It is submitted that this definition is framed simply for the purpose of clearly including South Australia in the Bill, and can in no wise exclude the definition of „Colony“ in the Colonial Laws Validity Act from applying to the Commonwealth in relation to its laws. The definition in the Commonwealth Bill arises from the fact that South Australia has from time to time been variously designated in legislation as a Colony and as a Province. For instance, in the Imperial Statutes 4 & 5 Wm. IV. c. 95, and 1 & 2 Vict. c. 60, the designation is „Province“, in 5 & 6 Vict. c. 61 „Colony“ and „Province“ are both used for the same purpose. In 4 & 5 Vict. c. 13, in 13 & 14 Vict. c. 59, and in all Imperial Acts relating to South Australia since the passage by the Local Legislature of the Constitution Act (18 & 19 Vict. No. 2) the term „Colony“ is used. But in the Act last mentioned and in all other local legislation since its passage, South Australia has uniformly been referred to as a „Province“. Apart from legislation, the Letters Patent, Commissions and Instructions, issued in connection with the offices of Governor, Lieutenant-Governor, and Administrator of the Government for South Australia, have all employed the word „Colony“ alone to designate that possession, while the Regulations and other official documents under or in consequence of Local Acts have as regularly referred to South Australia as a „Province“. It was merely for the purpose of avoiding the constant repetition of the distinction between the words „Colony“, as applied to the other states, and „Province“, as applied to South Australia, that the

definition in question was placed in the Bill. Inasmuch as Imperial Legislation has so generally referred to South Australia as a Colony, it may be that excessive caution has been used by the draughtsmen in this instance. If after this explanation any doubt remains, the Delegates are of opinion that the real point of objection is in the definition itself as introducing that doubt, and if the definition is unnecessary it would not seem to be convenient to counteract any doubt by amendment elsewhere in the Bill. The Commonwealth appears to the Delegates to be clearly a „Colony", and the Federal Parliament to be a „Legislature" within the meaning of the Colonial Laws Validity Act, and they cannot think that the larger meaning given to the word „Colony" in Clause VI. to save words can be held to take away the protection of the Act of 1865 from any law passed by the Federal Parliament. But the Interpretation Act of 1889 (52 & 53 Vict. cap. 63) might itself be cited in support of the same contention. That Act prescribes that, „unless the contrary intention appears, the expression ‚Colony' in any Act passed since the 1st January, 1890, is to mean any part of Her Majesty's Dominions, exclusive of the British Islands and of British India". The Interpretation Act goes on to require that where parts of such Dominions are under both a central and a local legislature, all parts under the Central Legislature shall, for the purpose of the definition, be deemed to be one Colony. It might be argued that this definition secures the application of the Validity Act to Colonial Statutes passed since the end of 1889, and if this be so it would be strange if the occurrence in Clause VI. of the few words quoted were held to deprive the laws of the Parliament of the Commonwealth of Australia of the same protection. It may further be observed that the Constitution of Canada contains no words similar to those proposed to be here inserted, even though that Constitution was enacted prior to 1889; yet it will not be denied that the Colonial Laws Validity Act applies to Dominion Statutes. What then is there which excludes its application to the Statutes of the Commonwealth?

The Delegates turn now to the suggested amendment of Clause V. by the omission of the part of that Clause which prescribes that „laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth". It will be observed that this provision is much more restricted than that made by Section 20 of the Federal Council Act of 1885. Under the present measure the provision is made to apply only to cases in which a British ship begins and concludes her voyage within the limits of the Commonwealth. But Section

20 of the Federal Council Act applied to every British ship which commenced her voyage in any one of the Colonies concerned, and also to every British ship which concluded her vayage in any one of them. In the former case the Federal Council Law would apply to a British ship on the whole of her voyage from Australia to a port beyond the Commonwealth: in the latter case to a British ship on the whole of her voyage from any point beyond the Commonwealth to Australia. In the present measure, so wide an application is not for a moment desired to be given to any law of the Commonwealth; yet it is now sought to further restrict in the hands of a much more competent legislature a power which 15 years ago the Imperial Parliament did not consider too wide for a much inferior body: a body neither elective nor bi-cameral, and lacking both a responsible executive and a Treasury. It has been further suggested that the matter is sufficiently provided for by the Merchant Shipping Act of 1894. If this view is correct, then the phrase objected to is at the worst a redundancy, and is therefore harmless. The Merchant Shipping Act of 1894, practically repeating the provisions in this behalf of Section 4 of the Merchant Shipping Act of 1869, gives in its 736 Section power to the Legislature of a British Possession to make laws regulating its coasting trade under conditions which need not here be set out. It is also true that the term „British Possession", whether as defined in the Act of 1869 or in the Interpretation Act of 1889, which preceded the present Merchant Shipping Act, would include such a Possession as the Commonwealth of Australia, which under the Interpretation Act would be deemed to be one British Possession including all parts under the Central Legislature. The expression „coasting trade" is not defined in any of the Acts cited: it may be taken to include the trade of vessels plying merely between the ports of a Possession within territorial limits. But the provision in the Commonwealth Bill, to which exception has been taken, would apply to such ships, on a voyage solely between two ports of the Commonwealth, even if they drifted or were blown outside the threemile territorial limit: the beneficial effect therefore would be, that a vessel on such a voyage would not be exposed to the anomaly of being subject to one set of laws at $2^3/_4$ miles from the coast, and to another set of laws at $3^1/_4$ miles from the coast. That this should be prevented is surely not too much to ask. Moreover, the provision in the Bill removes a further anomaly by protecting a vessel which passes from the territorial waters of one Colony into those of another from being subjected to a change of laws in that very operation, and by applying to her the uniform laws of the Commonwealth during the

whole of her passage between Commonwealth ports. While, then, the power is less than that conceded to the Federal Council, and never abused, it is larger than that conceded by the Merchant Shipping Act, but larger only for the most beneficial purposes. The reasonableness of the right claimed appears the more clearly when it is considered that one of the most useful purposes of the Constitution is the facilitation of trade between the several Colonies to an extent not hitherto possible, with a clear tendency towards obliterating in respect of commerce those arbitrary lines between Colony and Colony, which in the past have been productive of so much friction and hindrance. || There remain for explanation the enactments relating to appeals to the Judicial Committee of the Privy Council. The most important of these is to be found in the first part of Clause 74. It has been suggested that it ought to be nullified, first by striking out from the second covering Clause the words „this Act shall bind the Crown", and adding a consequent amendment in that Clause, and next by appending to covering Clause V. the following words „nothing in this act or in the Schedule set forth as the Schedule to this Act shall affect any prerogative of the Crown to grant special leave to appeal to Her Majesty in Council". The meaning of Clause 74 would be entirely changed if the alteration suggested were made, and the effect of the reading together of the covering Clauses and the Schedule would be that the Schedule itself would be something materially different from that which the people of the five Colonies have made their Agreement. Such a result would, in the view of the great majority of the Australian people, be nothing short of a calamity to Australian self-government. || Turning to Clause 74 itself, the discussion of which is forced on them by the suggestion, the Delegates would point out that the effect of the Clause is by no means so far-reaching as has been supposed in many quarters. The contention for the finality of the judgments of their High Court is based by Australians on the argument that if they are fit, as is conceded, to make a Constitution for themselves, they are fit also to say what that Constitution means, and for that purpose they should be allowed to rely on the decisions of their High Court. || Judicial knowledge of local conditions, invaluable always, is indispensable in the interpretation of Constitutions. || Her Majesty's Judges, Australian as well as British, will ever be men of conspicuous ability and integrity, whose impartiality will not be prejudiced by their domicile: — are not English Appeals heard in the House of Lords?

Few parts of the Bill were more keenly discussed at the several Sessions of the Convention than those which have been termed, for bre-

vity, the Privy Council Clauses. A mere reference to the index of the Debates will show how numerous and varied were the proposals discussed in the Convention. These discussions were conducted with absolute publicity, and before the provisions finally took their present shape there had been two lengthy adjournments of the Convention, during which the press and the public had closely debated the matter, and during which also the several Legislatures of the Federating Colonies, with the exception of Queensland (which had not been represented at the Convention), but which affirmed the Bill as framed, had made their varying suggestions for the amendment of this as well as the other parts of the Bill, including the covering Clauses. As the result of the discussions during the earlier sessions of the Convention and during its adjournments, and of strongly sustained debates in the final session at Melbourne, Clause 74 took the following, which is its present, form. „No appeal shall be permitted to the Queen in Council in any matter involving the interpretation of this Constitution or of the Constitution of a State, unless the public interests of some part of Her Majesty's Dominions, other than the Commonwealth or a State, are involved. Except as provided in this Section, this Constitution shall not impair any right which the Queen may be pleased to exercise, by virtue of her Royal prerogative, to grant special leave to appeal from the High Court to Her Majesty in Council. But the Parliament may make laws limiting matters in which such leave may be asked." The concluding sentence of the Clause, it is conceived, confers on the Commonwealth a right to do that which each State at present has power to do, subject to reservation of the Bill as effecting the prerogative, in accordance with the ordinary vice-regal Instructions. See Instructions to Australian Governors, dated July, 1892, Clause VIII., paragraph 7, under which the Governor is to reserve for the signification of the Royal pleasure „any Bill of an extraordinary nature and importance, whereby Our prerogative, or the rights and property of Our subjects not residing in the Colony, or the trade and shipping of the United Kingdom and its dependencies may be prejudiced". The framers of the Instructions clearly appear to have considered that the Colonies had full rights of legislation in such matters as paragraph 7, just quoted, sets forth, subject only to reservation for the Royal pleasure; and then only when previous instructions upon the particular Bill had not been obtained through one of the principal Secretaries of State, or when the Bill did not contain a Clause suspending its operation until the signification of the Royal pleasure. The last sentence of the Clause, therefore, seems merely to confer on the Federation that legislative power

which has long been possessed by each of the constituent States. || The second part of Clause 74, beginning with the words „except as provided in this Section", makes no mention of appeals to the Queen in Council from the Courts of the States or Colonies, and it is submitted that the appeal which now lies to Her Majesty in Council from those Courts is not taken away by the Bill as it stands, since the proposed enactment deals only with appeals to Her Majesty in Council from the High Court, for which appeals it was necessary for the Constitution to make provision. The immediately preceding Clause, 73, merely gives jurisdiction to the High Court with respect to appeals. It does not abolish appeals to the Queen in Council with respect to State Courts, and as there is no enactment elsewhere that appeals from them are to cease, the prerogative remains, and the appellant may take his case either to the High Court or to the Privy Council. But when, and only when, he goes to the High Court in one of the limited class of cases set forth in the first part of Clause 74, he must abide by the decision of that Court. Further, it will be remembered that the public interests of any part of Her Majesty's Dominions other than the Commonwealth or a State of the Commonwealth cannot in any case remain the subject of a final decision by the High Court, even where the interpretation of this measure or of a State Constitution is involved. The Delegates have thus summarised what appears to them to be the effect of the provisions in the Schedule, and consideration is asked whether the clauses are of such a nature as to justify alarm, and whether it is worth while to incur the risk of serious dissatisfaction in Australia for the sake of preserving the small degree of prerogative affected. || The Clauses are framed with relation to things as they exist, and even if the Sovereign Power of Parliament is ever to be exercised over the heads of the Australian people, we submit most earnestly that the present is pre-eminently a measure in respect of which that power should not be exercised. || The Delegates would here refer to the action of the Imperial Government in respect of the Federal Council Bill in 1885. In his circular despatch informing the Governors of the several Colonies of the passage of that measure, the then Secretary of State for the Colonies, having remarked that it had passed the House of Lords and was awaiting its second reading in the House of Commons when fresh advisers of Her Majesty had assumed office, said that „it would have been inexpedient to make any avoidable alterations in the Draft" prepared by the Convention at Sydney, „unless such alterations could be previously considered by the same or a similar Convention". Now that the popular approval has been invoked and given, to submit

proposed amendments to the „same“ Convention is impossible, because its legal existence has ended, and to submit them to a „similar Convention“ would be insufficient unless the Convention were popularly elected and its decisions popularly ratified. But the submission of amendments to a third referendum at this late stage would be regarded by the public in Australia as harassing, even if its vote were called for without a previous discussion of the amendments by another elected Convention. Apart from the expense of such proceeding, the delay would be most vexatious and unpopular, and beyond and above such considerations, the distrust of their previous decisions so manifested would be resented by the electors, whose agreement has been arrived at only after many years of agitation and controversy. The Delegates are unable to see that any fresh tangible facts have intervened since the referendum of 1899, to justify the expectation that the well-considered vote of that year would be reversed in respect of the matters in question. The feel that there are strong grounds for anticipating that the Governments of the several Colonies would emphatically protest against the expense, the delay, the turmoil, and the disturbance of normal conditions which would accompany a third referendum on, perhaps, a single point. But they admit at the same time that the logical result of the attempt to make any alteration of substance is to appeal a third time to a constituency containing nine teen-twentieths of the population of the Australian continent, and spread over more than two millions of square miles, that is to say, over an area almost two-thirds as large as the Continent of Europe. All this at an enormous expense, and merely for the purpose of ascertaining whether Australians who have twice decided that the makers of laws are in their opinion fit to interpret them, are prepared to reverse that decision in derogation of their own competency. It is not to be supposed that such a burden could be laid upon the people without awaking among them a feeling that they are seriously aggrieved. If, on the other hand, alterations were forced on them without their consent, some thing which is not their agreement, and for which they have never asked, would thus be forced on them, and the sense of injustice would be equally strong. It is respectfully urged that the granting of this Constitution without amendment is the only way out of such a dilemma. ||

When the Federal Council Bill was before the House of Commons in August, 1885, a right honourable gentleman, respected by all parties as a high constitutional authority, directed attention to several points in relation to that Bill which discover marked differences between its history and character and those of the present measure. He remarked that

there was no evidence to show that the Bill then presented had really been satisfactorily discussed and considered in the Colonies themselves. He said that it emanated, in the first instance, from a small coterie of Prime Ministers. He declared that the Bill would have come before the House with greater autority if they had reason to believe that proper pains had been bestowed upon it, and that proper efforts had been made to obtain full publicity and discussion for it in the Australian Colonies themselves. He condemned it as a very scanty, fragmentary and imperfect sketch of a Federal Constitution. Nevertheless, he was content that the House should pass the Bill in the form in which the Colonies had asked it to do so, and as a matter of favour to them, but the responsibility of its formation would rest substantially more with the Colonies than with Parliament. The action of both Houses confirmed this view.

In comparison, how irresistible is the present case! || Emanating in the first instance from the Australian electors, through specially chosen representatives, moulded by these with infinite pains, framed in full publicity, and then discussed for nearly 12 months in the Debates of the Convention, the columns of the Press, and the meetings of the people, the measure now to be submitted to the Imperial Parliament differs in every one of these respects, and radically differs, from the Feneral Council Bill. For the „scanty, fragmentary, and imperfect sketch“ of Federal Union presented in 1885 there has now been substituted a Constitution which may without presumption be characterised as complete in all its parts, and, after most anxious consideration of previous Federal Charters, approved and accepted by the Parliaments and the people of the federating Colonies. If British statesmen were content, as they showed that they were content, to pass the former measure in the shape given to it by Executive Governments alone, how much stronger is now the appeal of Australia to the sense of justice and of generosity of Government and Parliament when they are asked to confirm the Constitution of her Commonwealth, framed by the chosen of her people and solemnly agreed to by that people themselves. || In the speech from which extracts have already been taken, it was justly said that the responsibility for the Federal Council would rest with the Colonies themselves. Five Australian Colonies, by an aggregate majority of nearly three to one of their people, have affirmed with the utmost emphasis that they are prepared to take the responsibility of their own Constitution. They are of British stock; they are fellow countrymen of the people of this Kingdom; they have no more confidence in themselves and in their power to work out their own destiny than is right and just in men of their blood; that

they have no less, events have proved. Not arrogantly, but with the pride of their race, they ask to be accounted fit for those responsibilities which men of that race have never shirked and seldom abused. If they are given what they now ask, they will know that they have received a trust which their fellow subjects in this Kingdom will find them able to fulfil. In placing that trust in their hands the mother country will bind her Colonies to her with something stronger than words upon paper; with the high confidence which justice engenders, and the affection which gratitude evokes and perpetuates.

Edmund Barton.
Alfred Deakin.
James R. Dickson.
C. C. Kingston.
P. O. Fysh.

London, 23rd March, 1900.

Anlagen.

A.

Resolution passed at the Conference of the Premiers of the Australasian Colonies on the 25th January, 1900.

„That in compliance with the request contained in the despatch received from the Secretary of State for the Colonies, that Delegates from the Australian Colonies should be sent to England to explain and give assistance when the Australian Commonwealth Bill comes before the Imperial Parliament, this Conference is of opinion that each Colony should appoint a Delegate, and that such Delegates when appointed should represent all the Federating Colonies in unitedly urging the passage of the Bill through the Imperial Parliament without amendment, and in explaining any legal or constitutional questions that may arise."

B.

Draft of a Bill.

To Constitute the Commonwealth of Australia.

Whereas the people of [*here name the Colonies which have adopted the Constitution*], humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established: And whereas it is expedient to provide for the admission into the Commonwealth of other Australasian Colonies and possessions of the Queen: Be it therefore enacted by the Queen's

Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows: — || I. This Act may be cited as „*The Commonwealth of Australia Constitution Act*“. || II. (This Act shall bind the Crown, and its) *The* provisions *of this Act and of the Constitution set fort in the Schedule to this Act* referring to the Queen shall extend to Her Majesty's Heirs and Successors in the Sovereignty of the United Kingdom. || III. It shall be lawful for the Queen, with the advice of the Privy Council, to declare by Proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, the people of [*here name the Colonies which have adopted the Constitution*] shall be united in a Federal Commonwealth under the name of „The Commonwealth of Australian“. But the Queen may, at any time after the Proclamation, appoint a Governor-General for the Commonwealth. || IV. The Commonwealth shall be established, and the Constitution of the Commonwealth shall take effect, on and after the day so appointed. But the Parliaments of the several Colonies may at any time after the passing of this Act make any such laws, to come into operation on the day so appointed, as they might have made if the Constitution had taken effect at the passing of this Act. || V. This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the Courts, Judges, and people of every State, and of every part of the Commonwealth, notwithstanding anything in the laws of any State; and the laws of the Commonwealth shall be *Colonial Laws within the meaning of the Colonial Laws Validity Act, 1865*, (in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth).

Nothing in this Act or in the Schedule set forth as the Schedule to this Act shall affect any prerogative of the Crown to grant special leave to appeal to Her Majesty in Council. || VI. „The Commonwealth“ shall mean the Commonwealth of Australia as established under this Act. || „Colony“ shall mean any Colony or Province. || „The States“ shall mean such of the Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, Western Australia, and South Australia, including the Northern Territory of South Australia, as for the time being are parts of the Commonwealth, and such Colonies or Territories as may be admitted into or established by the Commonwealth as States; and each of such parts of the Commonwealth shall be called a „State“. || „Original States“ shall mean such States as are parts of the Commonwealth at its establish-

ment. || VII. *The Federal Council of Australasia Act*, 1885", is hereby repealed, but so as not to affect any laws passed by the Federal Council of Australasia and in force at the establishment of the Commonwealth. Any such law may be repealed as to any State by the Parliament of the Commonwealth, or to any Colony not being a State by the Parliament thereof. || VIII. After the passing of this Act the „*Colonial Boundaries Act*, 1895", shall not apply to any Colony which becomes a State of the Commonwealth; but the Commonwealth shall be taken to be a self-governing Colony for the purposes of that Act. || IX. The Constitution of the Commonwealth shall be as [follows:] *set forth in the Schedule to this Act* —

Schedule (wie in Nr. 13132).

Nr. 13135. **GROSSBRITANNIEN.** — Denkschrift des Kolonialamts über den Verfassungsentwurf. Kritik einzelner Bestimmungen insbesondere von Kap. 74.

Her Majesty's Government have had under their careful consideration the question how far it is possible to pass through the Imperial Parliament the Bill which has been submitted by the five Colonies of Australia; they desire to acknowledge the assistance they have received from the Memorandum prepared by the Australian Delegates, and they appreciate the friendly spirit in which the questions raised have been discussed. || Her Majesty's Government are most anxious that the Bill should be passed, and speedily passed, in a form which shall give to the Australian Colonies the Federation which they so earnestly desire; but, at the same time, it is their bounden duty to protect the interests of the United Kingdom and of other parts of the Empire which are also committed to their charge. || The points of difference are few in number, and involve a minimum of alteration. Her Majesty's Government observe that the Memorandum of the Delegates abstains from discussing any of the suggested alterations on their merits, and consists almost entirely of an appeal to Her Majesty's Government to accept without alteration the proposed Bill, as embodying the wishes of the people of Australia. || Her Majesty's Government feel it their duty to place on record some of the reasons which make it impossible for them to accede to this request, much as they would desire to do so. || The Memorandum of the Delegates requests that the whole of the draft Bill as received from the Colonies may be submitted to Parliament and passed into law. The distinction

which was drawn in the discussions of the Federal Convention between the „covering clauses“ and the „Constitution“ is no longer recognized, and it is contended that the whole Bill, covering clauses and Constitution alike, ought to be passed by the Imperial Parliament without alteration, on the ground that it embodies the Agreement at which the people of the Colonies have arrived. || While there is every desire to give effect, as far as is possible, to the wishes of the people of Australia, it must be pointed out that the enabling Acts under which the Referendum was taken formally referred to the „Constitution“ only, and the Addresses from the Parliaments pray that the „Constitution“ may be submitted to the Imperial Parliament and passed into law. || The distinction between the covering clauses and the Constitution was clearly pointed out by Mr. Barton on several occasions in the course of the debates. Speaking at Adelaide at the sitting of the 14th April, 1897, on clause 5, with reference to the provision as to the operation of the laws of the Commonwealth on British ships: „This appears to be a concession to Australia, and the best thing to do is to let the Imperial authorities deal with it.“ In the course of the debates at the Sydney meeting of the Convention in 1890, Mr. Barton again expressed himself more fully to the same effect. „We do not expect,“ he said, „that the Imperial Legislature will amend the provisions which are in the Constitution itself, although they are an endeavour to extend our autonomy; but these covering clauses are suggestions to the Imperial Legislature, and it would be absurd to expect that, as regards these clauses, the Imperial Legislature will not make such amendments as they please.“ || It is clear therefore that the covering clauses were not regarded as a part of the Agreement between the Australian Colonies as to the Constitution under which they are prepared to unite, but rather as suggestions as to the terms of the Agreement between the Colonies and the Mother Country.

An examination of the covering clauses shows that they deal with matters in which Australia, being a part only of Her Majesty's dominions, could not properly claim to have a final voice. They affect in important respects the prerogative of the Crown and the powers and privileges of the Imperial Parliament and of the Legislature of other parts of the Empire. In regard to these matters, the Imperial Parliament and Government are in the position of trustees for the whole of Her Majesty's dominions, and the responsibility attaching to that trust makes it incumbent on them to examine with the utmost care any proposal which would in any degree affect their power to discharge the trust efficiently. They cannot relieve themselves of responsibility to those for whom they

are trustees by divesting themselves of their powers by delegation. In putting the provisions of the draft Bill which affect these powers in the form of suggestions, and not as an integral and essential part of the Federal Constitution, the Statesmen who framed that instrument and the Parliaments and peoples who have indorsed it have fully recognized this principle. || The alterations suggested, as shown in the copy of the draft Bill handed to the Delegates, were limited to those which appeared essential for the safeguarding of the powers intrusted to the Imperial Parliament and Government for the protection of those common interests and the discharge of those common duties which form the peculiar sphere of the central authority of the Empire. || Taking them in the order in which they are discussed in the Memorandum of the Delegates, the first is the proposal to declare the Laws of the Commonwealth to be „Colonial Laws“ within the meaning of „The Colonial Laws Validity Act, 1865“. The Memorandum maintains that the doubts entertained by the Law Officers as to the application of that Statute to the enactments of the Commonwealth Parliament are unfounded, and that any amendment is therefore unnecessary; but that, if it is considered important to remove doubts on the subject, a separate enactment would be a better vehicle for such a declaration than the measure itself. It is to be observed in this connection that the Honourable R. E. O'Connor, one of the members of the drafting Committee, at the meeting of the 9th September, 1897, stated that the Colonial Laws Validity Act would have no application to the Laws of the Commonwealth, and it is important, in the interests of the Commonwealth as well as of the rest of the Empire, that any possibility of misapprehension as to the validity of Commonwealth Laws or as to the supremacy of Imperial legislation should be removed. That there is room for such misapprehension is clear, not only from the language of clause 6 of the covering clauses, but also from Article 51, paragraph 38, of the Constitution, which confers on the Commonwealth Parliament „the exercise within the Commonwealth, at the request or with the concurrence of the Parliament of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia“. Sub-section 29 of the same clause of the Constitution, moreover, empowers the Commonwealth Parliament to legislate in regard to „external affairs“, and, consequently, under these provisions it might be claimed that the Parliament of the Commonwealth had power to pass legislation inconsistent with Imperial legislation dealing with such subjects as those dealt with by the Foreign Enlistment Act. The respon-

sibility to foreign Powers for such legislation would rest, not on Australia, but on the Government of the United Kingdom, as representing the whole Empire; and in the absence of any definition or limitation of the privilege claimed by these provisions for the Commonwealth Parliament, Her Majesty's Government would fail in their duty if they left any room for doubt as to the paramount authority of Imperial legislation. || The next amendment dealt with in the Memorandum is the proposed omission from clause 5 of the words which prescribe that „The laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth." The Delegates rely upon the fact that an even wider application in the case of British ships was given to the Laws of the Federal Council by section 20 of the Federal Council Act of 1885, and they urge that the Laws of the Commonwealth Parliament, a more representative and responsible body than the Federal Council, should not be denied the more limited application claimed in the clause. || The words of section 20 of the Federal Council's Act were very wide, perhaps unduly so, and if the powers thereby conferred had been freely exercised grave difficulties would certainly have arisen. || What is desired is the power to the Commonwealth to control the coasting trade: this power they will have under section 736 of „The Merchant Shipping Act, 1894", which is not confined in its operation to the coasting trade while in territorial waters. Moreover, the words „first port of clearance" and „port of destination" in the clause in question are not free from ambiguity, and embarrassing questions might be raised as to the law applicable to a ship clearing from one Australian port for another after coming to Australia from a port in some other part of Her Majesty's dominions. || The analogy of the Federal Council of Australasia is incomplete, inasmuch as it was contemplated that all British possessions in Australasia might be represented in the Federal Council, whereas the operation of this Bill is at present confined to five Australian Colonies. || It must not be forgotten that the Imperial Parliament was expressly invited by Mr. Barton when speaking in the Convention to deal as they thought proper with this provision of the Bill. || The Memorandum next deals with the amendment relating to appeals to the Privy Council.

Before proceeding to consider the reasons urged by the Delegates against the proposed amendment, it is desirable to set out the grounds upon which Her Majesty's Government object to the provisions of Article 74, to which the suggested amendment applies. The Article is as follows: — || „No appeal shall be permitted to the Queen in Council in

any matter involving the interpretation of this Constitution, or of the Constitution of a State, unless the public interests of some part of Her Majesty's dominions, other than the Commonwealth or a State, are involved. || „Except as provided in this section, this Constitution shall not impair any right which the Queen may be pleased to exercise, by virtue of her Royal prerogative, to grant special leave of appeal from the High Court to Her Majesty in Council. But the Parliament may make laws limiting the matters in which such leave may be asked." || It is impossible to say what construction would be placed on this Article when it comes to be judicially interpreted. There may be large classes of cases just on the border-line with regard to which it cannot be predicted whether they do or do not involve the interpretation of the Constitution. || It may fairly be argued that any question as to the validity of the exercise of legislative powers by the Legislature of the Commonwealth is a matter involving the interpretation of the Constitution. Questions may arise whether legislation under any of the powers mentioned in paragraphs i, ix, x, xix, xx, xxvi, xxvii, xxviii, xxix, xxx, xxxvii, and xxxviii of Article 51 of the Constitution is or is not *ultra vires*, and any such legislation may involve matters affecting foreigners and foreign ships in Australia and in Australian waters and their Treaty rights. Yet as the clause stands there would be no right of appeal from the High Court to the Privy Council in such cases. || The Constitution embodies a request to the Imperial Parliament to delegate to the Parliament of the Commonwealth part of the powers now exerciseable only by the Imperial Parliament or by the Crown. Paragraphs 29, 30, and 38 of Article 51, for instance, purport to transfer to the Commonwealth Parliament powers not included in the powers of an ordinary Colonial Parliament, and it can hardly be contended that the Imperial Parliament should preclude an appeal to an Imperial Court on any question as to the extent to which powers now exercised exclusively by itself or by the Crown have been delegated. || A grave objection to Article 74 is the absence of any definition of the class of cases in which „the public interests of some part of Her Majesty's dominions other than the Commonwealth or a State". || Does this phrase include the interests of a large class of persons in Her Majesty's dominions — say of investors in Australian securities, or of a body of shareholders in an industrial undertaking formed, say, in the United Kingdom, to carry on some great commercial enterprise in Australia — or is it confined to cases in which the interests affected are only those of the government of other parts of Her Majesty's dominions? || If the latter is the true meaning, the proviso would have little or no operation. If the former, no task

can be conceived more difficult than that of deciding whether or not the condition of the Article has been satisfied. || The view taken in the Memorandum of the Delegates is that the prerogative of granting leave to appeal to the Privy Council from the Supreme Courts of the several Colonies is unaffected, and that Article 74 only applies to appeals from the High Court of the Commonwealth. || This is very doubtful, and is only one of the many difficult question of construction which would arise upon this Article. The Article appears to have been framed under the impression that the only appeal from the Supreme Courts of the Colonies was to be to the High Court of the Commonwealth, and its effect upon the right of Her Majesty to grant leave to appeal to the Privy Council from the Judgments of Supreme Courts of the Colonies is problematical. || If, however, the view taken by the Delegates on this point be correct, the result will be that in a Constitutional case a litigant defeated in the Supreme Court of a State might appeal at his option either to the High Court of the Commonwealth or to the Privy Council. The successful party might prefer the latter, but would have no choice. || Again, if the Delegates' view as to the construction of the Article is correct in the case of a decision by a Superior Court with which neither litigant is satisfied, there may be cross appeals, one by one party to the High Court, and the other by the other party to the Privy Council. The decisions of both of these Courts may be final, and if they happen to disagree, it is difficult to see what will be the consequence. || Further, under Article 74, it would in many cases be possible for a litigant to present a Petition to the Queen in Council for special leave to appeal, on the ground either that the question at issue did not involve the interpretation of the Constitution, or that public interests were involved, and on this Petition there would be a preliminary argument on either or both of these points. || To pass this Article in its present form would be to introduce confusion and uncertainty in a matter in which it is desirable above all others that there should be clearness and certainty. The difficulty of construing it forms an insuperable obstacle to its adoption by the Imperial Parliament without modification or some overriding clause in the Bill to control its operation. || But there are other and graver objections to the Article. From the proceedings of the Convention, it would appear to have originated to some extent in objections to the present constitution and working of the Judicial Committee of the Privy Council. The administration of justice by that Tribunal has been, on the whole, such as to command the confidence of the Empire. || But appart from this consideration, the time is specially inopportune for any proposal to curtail

its jurisdiction. Proposals are under consideration for securing a permanent and effective representation of the great Colonies on the Judicial Committee, and for amalgamating the Judicial Commitee with the House of Lords, so as to constitute a Court of Appeal from the whole British Empire. It would be very unfortunate if Australia should choose this moment to take from the Imperial Tribunal the cognizance of the class of cases of greatest importance, and often of greatest difficulty. Article 74 proposes to withdraw from the Queen in Council matters involving the interpretation of the Constitution. It is precisely on questions of this kind that the Queen in Council has been able to render most valuable service to the administration of law in the Colonies, and questions of this kind, which may sometimes involve a good deal of local feeling, are the last that should be withdrawn from a Tribunal of appeal with regard to which there could not be even a suspiciou of prepossession. || Questions as to the constitution of the Commonwealth or of a State may be such as to raise a great deal of public excitement as to the definition of the boundaries between the powers of the Commonwealth Parliament and the powers of the State Parliaments. It can hardly be satisfactory to the people of Australia that in such cases, however important and far-reaching in their consequences, the decision of the High Court should be absolutely final. Before long the necessity for altering the Constitution in this respect would be felt, and it is better that the Constitution should be enacted in such a form as to render unnecessary the somewhat elaborate proceedings which would be required to amend it. || But it must be further observed that matters involving the interpretation of the Constitution may raise questions of the utmost gravity, not only between the Commonwealth and the separate States, but also as between the Commonwealth and the States on the one hand, and other parts of Her Majesty's dominions or foreign countries on the other. Among the matters on which the Parliament may make laws for the Government of the Commonwealth is comprised (Article 51, paragraph 10) fisheries in Australian waters beyond territorial limits. The interpretation to be but on the Constitution in this matter may most seriously affect British vessels, and particulary vessels from New Zealand. Grave questions may arise as to what fisheries beyond territorial limits are to be deemed to be Australian fisheries, and as to the class or classes of persons on whom the laws of the Commonwealth as to this matter will be binding. It is hardly reasonable to expect that inhabitants of other parts of the Empire should be finally concluded in such matters by the decision of the Australian Court. || Another head on which the Parliament of the Commonwealth has power

to legislate is that of external affairs (Article 51, paragraph 29). As has already been pointed out, a law might be passed by the Parliament of Australia with reference to the subject of foreign enlistment. The consequences of such legislation might involve the Empire in difficulties with foreign Powers. It is not reasonable to withdraw from the Imperial Tribunal the right of deciding whether a measure of this class is or is not invalid as being in contravention of Imperial legislation, or as to its true construction. || The legislation of the Parliament of the Commonwealth may affect British shipping coming from the United Kingdom or British processions. The Merchant Shipping Act, 1894, makes (sections 735—736) special provision for legislation in a British possession with regard to vessels there registered, and with regard to the coasting trade in British possessions. Having regard to the interests which may be affected by legislation under this head, it appears essential that there should be the possibility of an appeal to the Queen in Council. || The question of the right of appeal must also be looked at from the point of view of the very large class of persons interested in Australian securities, or Australian undertakings, who are domiciled in the United Kingdom. Nothing could be more prejudicial to Australia than to diminish the security felt by capitalists who desire to invest their money there. One element in the security which at present exists is, that there is the possibility of an ultimate appeal to the Queen in Council, and there is very strong feeling against its abolition. Cases affecting the rights of such persons may often involve questions of the interpretation of the Constitution. But, apart from this consideration, the last sentence of Article 74 of the Constitution provides in express terms that the Parliament of the Commonwealth may make laws limiting the matters in respect of which leave may be asked to appeal. So that it is evident that the possibility of appeal in certain cases left by Article 74 as it now stands may be indefinitely curtailed in the future. || A brief examination of the history of Article 74 may be desirable before proceeding to discuss the arguments of the Delegates against its amendment. || In the draft of the Constitution prepared at the Adelaide meeting of the Federal Convention the Article was as follows: — || „No appeal shall be allowed to the Queen in Council from any Court of any State, or from the High Court or any other Federal Court, except that the Queen may in any matter in which the public interests of the Commonwealth, or of any State, or of any other part of her dominions are concerned, grant leave to appeal to the Queen in Council from the High Court.“ || The meaning of this Article was explained in the discussion on the 20th April,

1897, by Mr. Higgins, who was a member of the Judiciary Commitee, as follows: — || „I feel a misapprehension has grown up that we are trying to do something new. The object of this clause is simply to stereotype in the Act what has already existed in Canada, where there is a general right of appeal reserved to Her Majesty's in Council on a decision of the Privy Council; but that right of appeal is not allowed unless the cases are of public interest. Therefore the effect of clause 73 is simply to put in plain English what is the law now in Canada." || Mr. Barton endorsed this explanation, saying: „That is the whole purpose and object of the clause; my honourable friend has saved me the trouble of explaining it." || The phrase „public interest" was used by Mr. Higgins as defining the class of cases in which special leave is granted to appeal from a decision of the Supreme Court of Canada. The rules laid down by the Privy Council as regards such appeals are set forth in the case of Prince *v.* Gagnon (8 App., Cas. 103): — || „Their Lordships are not prepared to advise Her Majesty to exercise her prerogative by admitting an appeal to Her Majesty in Council from the Supreme Court of the Dominion, save where the case is of gravity, involving matter of public interest, or some important question of law, or affecting property of considerable amount, or where the case is otherwise of some public importance or of a very substantial character." || The language of the Article then under consideration hardly carried out the purpose with which it had been framed, as explained to the Convention by Mr. Higgins and Mr. Barton, namely, that it was only intended to stereotype and fix, in regard to the High Court of Australia, the practice of the Privy Council, as declared by that body itself, in regard to the Supreme Court of the Dominion of Canada; but their declarations are conclusive, as showing the sense in which the Article was adopted by the Convention at the sitting of the 20th April, 1897. || All that Her Majesty's Government desire upon this point is that effect should be given to the expressed intention of the framers of the clause, that it should embody the practice of the Privy Council upon Canadian appeals. After the Bill had been settled at Adelaide, it was discussed at length by the several Parliaments of the Federating Colonies, and several amendments were proposed in favour of extending the right of appeal as left in the Adelaide draft, but none apparently in favour of further restriction. The question was not discussed at the Sydney meeting, nor until January 1898, when an effort was made by those members who were in favour of the appeal to obtain the insertion of a provision saving the prerogative. The attempt was defeated by 22 votes against 14. The question was again brought up on

the 11th March, when, on the motion of Sir Joseph Abbott, a clause saving the prerogative to grant special leave to appeal was carried by one vote in a House of thirty-nine Members. This was followed by an amendment, moved by Mr. Symon, excepting cases involving the interpretation of the constitution of the Commonwealth or of a State, which was carried by 21 votes to 17. || The original draft of the Adelaide Session, therefore, which abolished appeals from all lower Australian Courts, and except by special leave from decisions of the High Court in matters involving the public interests of the Commonwealth, &c., was completely departed from, and the question of the appeal was left in the position summarized on page 7 of the Delegates' Memorandum. || If the provision in the Adelaide draft had carried out the declared intention of those who framed it, and left only the special appeal from the High Court in the cases in which appeals are allowed from the Supreme Court of the Dominion, it would have been entirely satisfactory to Her Majesty's Government, but the exception introduced at the last moment on the motion of Mr. Symon leaves the question in a very unsatisfactory and anomalous position. That exception had not been discussed in the several Parliaments when the measure was before them for detailed consideration and can hardly be said to have received adequate discussion. || The Delegates urge that „the contention for the finality of the Judgments of their High Court is based by Australians on the argument that if they are fit, as is conceded, to make a Constitution for themselves, they are fit also to say what that Constitution means, and for that purpose they should be allowed to rely on the decisions of their High Court", that „judicial knowledge of local conditions invaluable always is indispensable in the interpretation of Constitutions", and „that Her Majesty's Judges Australian as well as British, will ever be men of conspicuous ability and integrity, whose impartiality will not be prejudiced by their domicile". The answer is that in many cases the construction of the Constitution of such a country as Australia cannot be regarded as affecting Australian interests alone.

That cases would come before the Imperial Court of Appeal with the advantage of a full knowledge of local conditions relevant to the case as they would have been explained in the Judgments of the Australian Court, and that while the high standing and ability of Australian Judges s recognized to the fullest degree, it would be of great assistance to them that, in exceptional cases, there should be the possibility of having their decisions on constitutional questions reviewed by a Tribunal which, even if party feeling ran high on the question in dispute, could not

possibly be charged with being under its influence. || In conclusion, it should be remembered that the question must be looked at from a still wider point of view. || The retention of the prerogative to allow an appeal to Her Majesty in Council would accomplish the great desire of Her Majesty's subjects both in England and Australia, that the bonds which now unite them may be strengthened rather than severed, and, by insuring uniform interpretation of the law throughout the Empire, facilitate that unity of action for the common interests which will lead to a real Federation of the Empire. || The object of every one at present should be to draw closer together all parts of the Empire. The existence of the right of appeal, subject to the leave of the Privy Council, has been a link effectively binding together every part of Her Majesty's dominions: the weakening of this tie would seriously lessen the value of even so great and beneficent a result as the Federation of Australia. || If the Bill were passed in its present form, while it would mark a step in advance as far as the Federation of Australia is concerned, it would be a retrograde measure so far as it affects the larger question of Imperial Federation.

March 29, 1900.

Nr. 13136. **NEU-SEELAND.** — Denkschrift der Regierung an den britischen Kolonialminister. Wünscht einige Änderungen am Verfassungsentwurf.

The Government of New Zealand desires to secure the insertion of certain amendments in the Commonwealth of Australia Constitution Bill shortly to be laid before the Imperial Parliament. || These amendments are three in number. The first of them is, in effect, that New Zealand should preserve the right of joining the proposed Commonwealth of Australia on the same terms as the original States now about to be united in such Commonwealth. || The second is, that while New Zealand remains outside the Commonwealth, litigants in her higher Courts, though reserving the right they now possess to appeal to the Queen in Council, should, as an alternative, have the right to appeal to the high Court of Australia on paying the fees and complying with the rules of that tribunal. The third amendment is, that the Australian Commonwealth and the Colony of New Zealand should be empowered to make the necessary arrangements to employ their naval and military forces for mutual aid and defence, including operations outside their own boundaries, and for

that purpose to co-operate in forming a homogeneous Australasian force. || The importance of the first amendment to New Zealand is great. The Colony is divided from Australia by 1200 miles of unbroken sea. It still takes from four to five days for persons quitting New Zealand to reach any port in Australia. Though a large and valuable trade is carried on between the two countries, and though New Zealand is linked to Australia, not merely by financial ties, but by bonds of intercourse, cordial friendship, and sympathy, she has also vital and separate interests. Many, also, of the leading matters on which the discussions on Federation in Australia during the last 12 years have turned are topics with which the New Zealand people is almost unaquainted. It is therefore only to be expected that the Colony should watch the Federal movement with caution and reserve. It is also true that, until June of last year, New Zealand was unable to judge as to intentions of the great Colony of New South Wales with regard to the Commonwealth Bill. It was not until the month of September that Queensland decided to enter the Commonwealth; Western Australia has not even yet done so. And it was directly after the decision of Queensland had become known that, in response to a request from Sir John Forrest, the leading statesmen of Australia intimated that, in their opinion, it was impossible to consider any further amendments of the Commonwealth Bill. From that moment the only course left open to New Zealand has been that now taken. || About that time there appeared in New Zealand evidences of the growth of a feeling in the Colony in favour of a closer union with Australia. This was on the eve of the general elections, and Mr. Seddon, the Prime Minister, then defined his position, stating that the future relations of New Zealand with Australia were a matter for education and careful examination: that for himself he kept an open mind, but that prudent deliberation was advisable. At the general elections which took place in December last, Mr. Seddon was returned to power with an unusually large majority. It may therefore very safely be assumed that this cautious but not hostile attitude fairly represents the present view of the people of the Colony. Some stress may be laid on the foregoing facts in view of the possible objection that New Zealand's action now comes to late. The Colony virtually asks that, in view of its positions of distance and difficulty, it should have more time given it to make up its mind than has been found necessary by colonies which are continguous or almost so. If it should be proposed to fix a limit of time to this, that would clearly be a matter for reasonable consideration. || In so far as the second amendment would give certain New Zealand

litigants a right of resort to the High Court of Australia, it is scarcely likely to meet with objection in Australia unless on the general ground that no amendment whatever of the Commonwealth Bill is now desirable. In the event of the amendment being admitted, it is obvious that certain precautions might have to be taken to conserve the existing rights of New Zealand litigants, and also to prevent clashing of appeals, but doubtless these could be provided for. || The third amendment, that providing for a species of partial federation for purposes of defence and mutual assistance, seems not only desirable but unobjectionable in every way. It does not propose that any kind of compulsion should be applied to either the Commonwealth or New Zealand: it merely empowers them to make such arrangements as may be deemed mutually advantageous. At present it seems more than doubtful wether either the Commonwealth or the Colony has the power to make simple, binding and effective arrangements which would involve operations and expenditure outside their own boundaries, and under which each would have to act so as to affect colonists not subject to their respective jurisdictions. Recent events have clearly shown that the time has passed by for regarding the military forces of a colony as something never to be employed outside its own boundaries. I need not point out that such a co-operation would be of value not only to Australia and New Zealand, but to the Empire which both are so anxious to serve. W. P. Reeves.

Westminster Chambers, 13, Victoria Street,
London, S. W., March 30th, 1900.

Nr. 13137. WEST-AUSTRALIEN. — Denkschrift der Regierung an den Kolonialminister über den Verfassungsentwurf.

In the discussion at the Convention which drafted and passed the Commonwealth Bill, it was generally admitted that the condition of Western Australia entitled it special treatment if it joined as an Original State in the Federation of the Australasian Colonies. It was pointed out that not only would the Colony lose a great portion of its Revenue by Intercolonial Free Trade, but also that the settlement of the soil and the development of its industries would be most prejudicially affected by the unrestricted competition of the other Colonies. || In these circumstances the Convention passed the 95th Clause of the Bill, which is as follows:—||

„Notwithstanding anything in this Constitution, the Parliament of the State of Western Australia may, during the first five years after the imposition of uniform duties of Customs, impose duties of Customs on goods passing into that State and not originally imported from beyond the limits of the Commonwealth; and such duties shall be collected by the Commonwealth. || „But any duty so imposed on any goods shall not exceed during the first of such years the duty chargeable on the goods under the law of Western Australia in force at the imposition of uniform duties, and shall not exceed during the second, third, fourth, and fifth of such years respectively, four-fifths, three-fifths, two-fifths, and one-fifth of such latter duty; and all duties imposed under this section shall cease at the expiration of the fifth year after the imposition of uniform duties. || „If at any time during the five years the duty on any goods under this section is higher than the duty imposed by the Commonwealth on the importation of the like goods, then such higher duty shall be collected on the goods when imported into Western Australia from beyond the limits of the Commonwealth.“ || The Commonwealth Bill was, in July of last year, referred to a Joint Select Committee of both Houses of the Western Australian Legislature for consideration and report, and the Committee reported with respect to this Clause that it would cause great inconvenience and injury to trade, and recommanded that it should be so amended as to give the whole of the present duties to the Colony for the full period of five years, without reduction. || In order to give effect to the Committee's recommendation, the Government of Western Australia now seek to have the Bill amended by striking out the 95th Clause, and inserting in lieu the following:— || „During a period of five years following the imposition by the Parliament of the Commonwealth of uniform duties of Customs, the State of Western Australia may, notwithstanding anything in this Constitution, continue to receive the same duties of Customs as are in force there at the passing of this Act, such duties to be collected by the Commonwealth. The Parliament of Western Australia may, during that period, repeal or alter, but may not increase, any of such duties; and, at the end of the said period, such duties shall absolutely cease. || „During the said period of five years all goods imported into the other States of the Commonwealth from Western Australia shall be subject to such duties of Customs as the Parliament of the Commonwealth may impose.“ || If this amendment be made, the Government will immediately summon a meeting of the Western Australian Legislature, with a view to passing the necessary legislation so that the Commonwealth Bill may be referred to the people,

and the Government will also use its utmost endeavours to secure the acceptance of the Bill by the voters. S. H. Parker.

30th March, 1900.

Nr. 13138. **GROSSBRITANNIEN.** — Bericht über eine Beratung der australischen Delegierten mit dem Kolonialminister.

London, 5. April 1900.

Present:

The Right Honourable Joseph Chamberlain, M. P., the Secretary of State for the Colonies, presiding. The Right Honourable the Earl of Selborne, Under Secretary of State for the Colonies. Sir RichardE. Webster, Bart., Q.C., M.P., Her Majesty's Attorney-General. Sir Robert B. Finlay, Q.C., M.P., Her Majesty's Solicitor-General. Sir Courtenay P. Ilbert, K.C.S.I., C.I.E., Parliamentary Counsel. The Right Honourable C. C. Kingston, Q.C., from South Australia. The Honourable E. Barton, Q.C., from New South Wales. The Honourable A. Deakin, from Victoria. The Honourable J. R. Dickson, C.M.G., from Queensland. The Honourable Sir Philipp Fysh, K.C.M.G., Agent-General, representing Tasmania. A. G. Berry, Esq., Secretary to Federation Delegation. S. H. Parker, Esq., Q.C., from Western Australia. The Honourable W. Pember Reeves, Q.C., Agent-General, respresenting New Zealand. The Honourable Sir R. G. W. Herbert, G.C.B. H. Bertram Cox, Esq. John Anderson, Esq., C.M.G.

Mr. Chamberlain: Gentlemen, with the assent of the other delegates, our first business is to ask the gentlemen who represent New Zealand and Western Australia whether they have anything to add to the statements which they have put in for our consideration, and perhaps I will ask Mr. Parker in the first place to say whether he would like to add anything to what has already been said in his memorandum. || Mr. Parker: Mr. Chamberlain, perhaps you, sir, and the gentlemen present will pardon me if I only say a few words, because I feel I am hardly in a condition to say anything. I think my fellow delegates from the Australian Colonies will all admit that it is most desirable to consummate their work by federating the whole of Australia.

Several Delegates: Hear, hear.

Mr. Parker: While one-third is excluded from the Australian Federation their work can hardly be said to be complete. Now, Western Australia it is admitted by the Bill — and I need not go beyond the Bill — it is

admitted in the Bill in the strongest terms that Western Australia is not so fitted to federate with the neighbouring Australian Colonies as the larger and older Colonies are. Its industries, particularly so far as agriculture is concerned, are in comparatively an infant state. They require fostering; and it was recognised by the Convention and in the Commonwealth Bill that in order to foster these industries Western Australia should retain its duties as against the neighbouring Colonies for a period of five years. The Commonwealth Bill provides that these duties shall be reduced annually by one-fifth, so that in five years they die out entirely. Now, it was felt by the Committee of the Joint Houses of the Legislature of Western Australia, that this was not only not sufficient protection for these new industries and for the agriculturalist, but also that an annual alteration of duties would greatly injure and disturb trade, and therefore it was recommended by the Joint Legislative Committee that these duties should be continued as a whole for the period of five years. The Joint Select Committee of the two Houses recommended several other amendments to the Bill, but after due consideration the Government of the Colony have authorised me to state that they will be prepared to do their utmost to bring Western Australia into the Federation as an original state if the Bill can be so amended that Western Australia may retain its duties as against the neighbouring Colonies for a period of five years. I need not delay the meeting, because the gentlemen who come from the neighbouring Colonies, who are particularly interested in the subject, are just as well aquainted with the arguments that I might use as I am myself, but I may point out that it is very little we ask, and we have a great deal to give. We are prepared to give one-third of the area of the whole of Australia. We do not ask for any alteration in the principle of the Bill, we simply ask for the alteration of the amount of the duties which the Bill proposes to give us. Instead of being reduced to four-fifths, three-fifths, two-fifths and one-fifth, we ask the whole for five years. ‖ I might point out, Mr. Chamberlain and gentlemen, that Western Australia is very peculiarly situated as regards Federation because of its comparatively isolated state. In order to reach Sidney from Perth it will take a representative of Western Australia about the same time as it would take to go from London to New York. There is no railway communication and we can only travel by sea to South Australia and thence by rail. I take it that the capital of Federated Australia will be somewhere in New South Wales, near Sydney, therefore, Western Australia will be very considerably handicapped in the way of representation until she is united by a railway with the neighbouring Colonies. Well, Western

Australia also, so far as its revenue is concerned, collects a great bulk of it by means of customs dues, and it is estimated that she will lose about £300 000 a year if she federates with the Australian Colonies. But notwithstanding this, notwithstanding the difficulty of representation, notwithstanding the fact that we cannot really be united with the rest of Australia until we have a railway, still the Government of Western Australia is prepared to accept all these disadvantages if we can have the Bill amended in the one particular which I have mentioned. || Now, sir, it has been pointed out to me that the delegates from the neighbouring Colonies are instructed to do their utmost to have this Bill passed by the Imperial Parliament without any amendment whatever, and I take it that if the Imperial Government adopt the view of the delegates there will be little hope of my obtaining any amendment in favour of Western Australia. But if, as I anticipate, the Bill will be amended in some particulars by the Imperial Legislature, then it seems to me there can be no reason why it should not also be amended in the minor matter which I have mentioned as affecting Western Australia, because after all it is a very minor matter compared to the amendment that is proposed to be made by the Imperial Government as regards the Privy Council and other matters mentioned in the memorandum which has been furnished to us. || The reason why it has been said that the Bill ought not to be amended is that a further referendum will be necessary to the people of Australia. Well, this ground will be cut away entirely if the Bill is amended at all, and it will let in the opportunity for the amendment which I desire on behalf of my Colony, and I hope and trust that the delegates from the neighbouring Colonies will see their way, sir, to suggest to you a mode by which, if this Bill is amended at all, Western Australia may be admitted as an Original State on the terms she asks.

The Hon. W. Pember Reeves: Mr. Chamberlain and Gentlemen: I, like Mr. Parker, have but little to say, but I should like to lay some stress, as he did, upon the peculiarity of our position. While we are not so geographically placed as to be quite one of the Australian Colonies, we are so placed that no other part of the Empire has quite the same interest in them and in this Bill as we have. We are not contiguous with them, but we have the ties of intercourse and trade. Our people meet them in business daily, and this Bill which is to be passed, and which is to lay down the lines of the Commonwealth, establishing it for all time — at any rate for generations to come — will affect us whether we come into the Federation or whether we stand out. Our position, in short, is not an enviable one. We stand to lose if we stay out. We

stand in the opinion of a great many of our people, to lose also if we go in hurriedly and without due consideration. We have a very large and valuable trade in Australia. For the last ten years that trade has averaged something over £2 500 000 a year, which, to a small community like New Zealand, is a matter of considerable moment. If we stay out of the Federation it is our belief that we shall lose a part of that trade. On the other hand, if we come in we shall take on ourselves of course a portion of the burdens of Federation, and we do not at present see, or at any rate a considerable number amongst us do not see, that our interests are identical enough with those of Australia to make it prudent enough for us to hasten into Federation. We think, in fact, that it may be necessary for us to make some special arrangements. This may lead to delicate and careful negotiations. That, sir, is our main reason for the caution and the hesitation which our people have shown during the last 10 years. If, as I say, we stay out of the Federation, our interest in this Bill is not merely confined to its effect upon our trade — the effect which any customs tariff imposed on Australia may have upon our trade — but, as we shall meet the Australians in business every day, we may come into collision with them, as people in business do come into collision, over such matters as fisheries and other parts of trade and industry. That is why the legal clauses of this Bill are a matter of special interest to us, even if we do not come into the Federation. || It may be said, sir, that the relations of Australia and New Zealand in regard to this Bill are purely a matter of domestic concern — are domestic matters which Colonists should settle amongst themselves and with which Her Majesty's Government have no concern. That I do not admit. No matter which concerns two distinct portions of the Empire is a matter purely of domestic concern to one of them. No matter which requires Imperial legislation is a matter of domestic concern to one of them. No matter which requires Imperial legislation is a matter of domestic concern. For this Bill to become operative is an Imperial concern requiring Imperial interference and Imperial settlement. It may be said, it has been asked, why did we not ask for this concession, for it is a concession, before? The answer to that is, sir, first of all we have looked on at the discussion of Federation in Australia from our own standpoint — a standpoint of isolation; we have looked on and watched what has been going on. We have seen — up till the middle of last year — the whole question of Federation in solution. We have seen to a certain extent a conflict of ideas and a conflict of interests. We had no one ordered, settled, established body to negotiate with, and we did not know until July that

the greatest Colony of the Continent, the Colony of New South Wales, would adopt Federation in the form in which it had been settled by the Convention. We were to a large extent misinformed. In the judgment of many of us New South Wales was not going to accept the Convention. As it happened, New South Wales did accept it, and by a clear majority, although after a very keen difference of opinion amongst her people. Since that moment we have had no opportunity of getting any amendments into the Commonwealth Bill. From that moment the principle was laid down that any further amendments in the Commonwealth Bill could not be considered out there. When I say that, I rely upon the telegrams sent by the leading statesmen of the proposed Commonwealth to Sir John Forrest, which I think were sent in the last week of last September. We therefore have had no opportunity of asking for this concession until now; and it does appear to us now that now is the proper time; and that, as the Bill had to come Home and be dealt with by the Imperial Parliament, the proper tribunal to approach is the Imperial Parliament, and we appeal to that Imperial tribunal now. || It is not the case that the people of New Zealand have declared themselves against Federation. It is not the case that the Prime Minister of New Zealand has declared himself against Federation. Mr. Seddon, in speaking before Parliament last Session, challenged anybody to say that he had ever declared himself opposed to Federation; his position is simply one of cautious examination. And that, in fact, is the position of the majority in New Zealand. A movement has been growing in favour of Federation with Australia. As far as I can understand, it is still growing. Therefore I think our request cannot be dismissed as a mere wanton meddlesomeness, as mere wanton interference at the last moment in order that we might appear to be doing something. Our request is the result of the growing feeling in New Zealand that we shall have to face the question of Federation with Australia, that we shall have to make up our minds—and that pretty soon — whether we are definitely coming in, or whether we are prepared to accept the consequences of standing out. But we wish to have time, sir — reasonable time, given us to make up our minds; and I submit that, in consideration of our peculiar position — a position which has called for caution, which has demanded caution, in which caution has been our duty, that it is not unreasonable of us to ask for a fair time in which to come to this momentous decision. I am dealing now, and I have been dealing, entirely with the first amendment, that is the one which asks that the open door should be left for us for a certain time, because, although no time is specified, I frankly admit that some

time must be specified in case we come to any arrangement about it. Of course, it would be ridiculous to suppose that we should retain the right for a hundred years, or for a generation even, to come in on the same terms as the Original States. All we suggest is some reasonable time. || Then I will not detain you, sir, by dwelling upon the second or the third amendments; that relating to the option to our litigants to have recourse to the Australian Federal Court — the High Court; and that dealing with an arrangement relating to co-operative devensive arrangements by the Commonwealth and New Zealand. They are simply matters of practical utility, and I base our request principally upon their reasonable and practical nature. If no amendments are to be admitted now, they, of course, cannot be dealt with at all. Nor should I advance the suggestion that the Commonwealth Bill should be delayed or a referendum to the whole people of Australia be made necessary for those two amendments. But, if the Bill is to be dealt with, if the Bill is to be amended, then I hope that those two amendments will be fairly considered. That is all I ask. I may say before sitting down that it is not the wish of the Government of New Zealand to delay the Commonwealth Bill in any unreasonable manner. So far from desiring to do that, sir, if any means may be found — can be found — by which our interests can be safeguarded without putting the people of Australia to any expense or inconvenience or unreasonable delay, no one would be more glad to see that than the Government of the Colony of New Zealand.

Mr. Chamberlain: I should like to ask the delegates from Western Australia and New Zealand one or two questions, and probably some of the delegates might also wish to have further explanations. In the first place, I would like to ask Mr. Parker whether he has considered that if his proposal is accepted, there would necessarily be delay in regard to Federation, because, I understand, he admits that if that proposal is accepted, as he makes it, there would have to be a further referendum, and that would involve certainly a great deal of delay, and possibly some risk, and I would ask him whether he has considered any way by which that delay might be avoided on the assumption that the delegates generally and their respective Governments were favourable in principle to his proposals? || Mr. Parker: I agree with you, sir, that it seems to me there would be perhaps some little delay. In the event of course of the amendment that I suggest being adopted, I take it, it would be necessary to have another amendment to the third clause of the Bill, which names the Colonies that have accepted the constitution — an addition to that clause to the effect that, if Western Australia within a certain time

accepted, she should be included as an Original State in the Proclamation. The Bill provides for a proclamation proclaiming the Australian Federation. But I would not ask, I would not dream of asking for this amendment if it alone necessitated a referendum. I do not think it would be fair to the other Colonies to ask for this concession, if it put the other Colonies to all the expense and delay of another referendum to the people. My point is this, that, as it is suggested that the Bill will be amended by the Imperial Parliament — as it is proposed to amend it — || Mr. Chamberlain: No. || Mr. Parker: The Bill — || Mr. Chamberlain: Pardon me, I do not think that any decision has been come to at the present time. || Mr. Parker: Oh I beg your pardon I should have said suggested. || Mr. Chamberlain: Suggested from outside. No statement whatever has hitherto been made on the part of the Imperial Government. || Mr. Parker: I was misled by the memorandum that was sent to me. || The Attorney-General: The argumentative memorandum. || Mr. Parker: It was suggested that the Bill should be amended, and the clauses of the Bill which it was proposed to amend were struck out and the alterations put in. || Mr. Chamberlain: I see. All I want to say is, that up to the present time anything of this kind has been in the nature of personal suggestions, as a result of conversations; no official or formal suggestion has been made. || Mr. Parker: Then I might put it in this way, sir, that if the suggestion that has been made that the Bill should be amended in certain particulars is carried out, then the reason that is given why the amendment that I ask should not be adopted is no longer a reason, the reason being that it would require another referendum to the people, because I take it that if this minor amendment which I suggest requires a referendum to the people the much larger amendments that it is suggested to be made by the Imperial Parliament as regards the Privy Council and the Merchant Shipping would certainly require a referendum to the people, but I would not ask for this amendment to be made on behalf of Western Australia if it alone required a referendum to the people. || Mr. Chamberlain: Well, then to make the matter perfectly clear I will put this hypothesis to you. Suppose either that the Imperial Government makes no amendment or that it makes its amendments in a form which does not require any further reference to the people, in that case have you any way to suggest by which similarly the object of Western Australia can be carried out without such a reference and consequent delay. || Mr. Parker: I think, sir, from my perusal of the memorandum that was furnished by you, sir, to the delegates, that you draw a distinction between the constitution as contained

in the Bill and what are known as the covering clauses. Well, is not this matter as it affects Western Australia more in the nature of a covering clause than a part of the constitution? How can it be said to be a part of the constitution? It is merely an allowance to Western Australia of its duties for a term of years. An alteration of that kind would not be an alteration of the constitution, therefore, I submit, sir, that if the alteration as to appeals to the Privy Council does not require a referendum, much less does an alteration of this clause giving Western Australia its duties for five years require any reference to the people. | Mr. Chamberlain: Then, Mr. Reeves, may I ask you with regard to two of your suggestions, namely, the reference to the Court and the arrangements for mutual defence. Do you urge that it would be desirable in any case to introduce those into the Bill? Would it not be rather a matter for subsequent agreement between New Zealand and the Commonwealth? || The Hon. W. Pember Reeves: I think, sir, that they would come into the Bill quite as properly as the special arrangements relating to Western Australia. I think there is more than one point in the Bill which might be regarded as of a local character — a quasi local character. For instance, I think the defining of the locality of the proposed capital might be said to come under that head. There are distinct references to Western Australia in the Bill. I am not sure whether there is not a distinct reference to Queensland — some reference to Queensland. || The Hon. E. Barton: There is a special power to divide that State into electorates for the choosing of senators. || Mr. Chamberlain: But any such arrangement clearly, if introduced into the Bill now, would involve the delay which we all deprecate, would it not? You cannot suggest that those could be introduced by way of covering clauses, can you? || The Hon. W. Pember Reeves: I do not suggest in regard to those two. I do not to-day suggest anything one way or the other, except to say first of all with Mr. Parker that if the Bill itself is to be amended then I think that they could properly be put in. If the Bill is not to be amended, then it becomes a question. If we once know that it becomes a question of suggesting what course is to be taken. I do not yet know that the Bill is not to be amended.

Mr. Chamberlain: Well, then there is only one other question that I wish to ask; can you state what is the opinion of New Zealand or of your Government with regard to the question of Appeals. You are, of course, aware how that question is left by the constitution. What opinion has been formed; if you could express any opinion upon it I should be glad? || The Hon. W. Pember Reeves: Yes, sir, I am authorised to say

this: the Government of New Zealand will be very glad if the appeals to the Privy Council can be preserved — the right of appeal on constitutional points. That is in view of the possibility of their coming into the Federation. They recognise, however, that it is a very large question — a matter of Imperial concern, and by no means their sole or peculiar affair. They confine themselves therefore to expressing a hope that some way may be found, if possible, satisfactory both to Her Majesty's Government and to Australia, by which this right of appeal may be retained. || Mr. Chamberlain: Mr. Parker, have you any observations to make upon that point? || Mr. Parker: I have no instructions whatever, sir, from my Government. || The Hon. E. Barton: It would be very important in the course of my duty to know from Mr. Reeves whether he had been authorised to suggest any time as that which his Government thinks should be allowed for New Zealand to enter the Commonwealth on the terms of an Original State. Of course, she may possibly have those terms under the Bill as it stands, in the event of her applying for admission after the Bill has become law. || The Hon. W. Pember Reeves: I think I might say, Mr. Barton, that I have a very wide discretion, and what I interpret to be a general discretion with regard to these terms from our Government. || Mr. Chamberlain: What time do you suggest? || The Hon. W. Pember Reeves: I should suggest seven years; that would be a minimum. || The Right Hon. C. C. Kingston: I should like to ask Mr. Parker this: there is a very strong difference of opinion in Western Australia, is there not, Mr. Parker, as to the propriety of the amendments you suggest? || Mr. Parker: I do not know that there is a very strong adverse opinion to these proposed amendments. Of course, one could quite understand that there is very often an agitation against Government proposals, but taking the opinion of the Legislature, I think I am justified in saying that the Legislature, the Upper and the Lower House, are almost unanimous in favour of this proposed amendment. || The Right Hon. C. C. Kingston: There has been considerable popular agitation against the amendments has there not? || Mr. Parker: I do not think there is any popular agitation against the amendments; there has been agitation amongst the people in favour of Federation. || The Hon. E. Barton: In favour of the reference of the Bill as it stands? || The Right Hon. C. C. Kingston: As it stands. In many cases petitions have been prepared with that object, has there not? || Mr. Parker: I believe there is a large petition presented to Parliament. I am not a member of either House, but I know from hearsay, and seeing it in the papers, that large petitions numerously signed from the goldfields and elsewhere were

presented to Parliament asking that the Bill should be referred to the people — the Bill as it was drafted. || The Right Hon. C. C. Kingston: Is there not some petition signed by 30000 people in the course of forwarding? || Mr. Parker: I only know from what I see in the papers. || The Right Hon. C. C. Kingston: That is so, is it not? || Mr. Parker: I believe that is so, judging from the papers; but it is a petition for Separation, not Federation. || The Right Hon. C. C. Kingston: And the opinion of the goldfields is altogether against the amendment you suggest? || Mr. Parker: I do not know. I dare say the opinion of the goldfields may be against it, because you must bear in mind that the goldfields population is purely a consuming population; the remainder of the Colony is a producing population. Of course, these duties add to cost of living to a certain extent, but a Government which has various communities to look after must study the interests of the whole: it cannot sacrifice all the agriculturalist and infant industries merely for the benefit of the goldfields population. || The Right Hon. C. C. Kingston: Then may we take it that the consumers of Western Australia, as opposed to the manufacturing and producing population, are in favour of the Bill as it stands, and the agricalturists and producing population are in favour of the amendment? || Mr. Parker: I will not say the consumers as a whole, only those on the goldfields. I do not think the consumers anywhere else, except on the goldfields, would object to the amendment that I particularly refer to. || The Right Hon. C. C. Kingston: It is the Parliament which prevents thereference to the people at present? || Mr. Parker: The Upper House. || The Right Hon. C. C. Kingston: The Upper House? || Mr. Parker: The Upper House is apparently of opinion, or a majority are, that Federation would be so detrimental to Western Australia that they would not allow the Bill to be referred to the people. || The Right Hon. C. C. Kingston: Are you not of opinion, Mr. Parker, that if the Bill were referred to the people it would be accepted by the people of Western Australia? || Mr. Parker: It is impossible to form an opinion. || The Right Hon. C. C. Kingston: I want the benefit of your personal opinion? || Mr. Parker: I should be very sorry to say that there was a majority in favour or a majority against. I believe the whole of the agriculturalist and manufacturing interests — people interested in manufactures, and a great many of the consumers as well about the coasting portions, are against Federation, on the terms of the Bill as at present drafted, but the goldfields population, of course — || The Right Hon. C. C. Kingston: Very strongly in favour of it? || Mr. Parker: A large majority of them who come from the neighbouring Colonies are wholly in favour of Federation. || The Right

Hon. C. C. Kingston: Your Colony at present is in a very prosperous condition? || Mr. Parker: I think so; yes. || The Right Hon. C. C. Kingston: Owing to the discovery and development of the mineral resources by visitors from other Colonies and other countries? || Mr. Parker: I do not admit that at all; I think it is owing principally to the great encouragement given to the development of this industry by the Government. The Government has spent many hundreds of thousands of pounds in following up the prospector, and giving him water, whithout which he could not have lived. || The Right Hon. C. C. Kingston: And the Revenue returns, of course, have been very considerable augmented by this Government expenditure? || Mr. Parker: Exactly, || The Right Hon. C. C. Kingston: You say that it is very little you ask; what you do ask is the right to tax the goods of other States, is it not? || Mr. Parker: Pardon me, that tax is settled. || The Right Hon. C. C. Kingston: You want to double the rate? || Mr. Parker: No, it is only a question of the amount. || The Right Hon. C. C. Kingston: Quite so. Have you calculated at all what it means. || Mr. Parker: I have not. || The Right Hon. C. C. Kingston: But the proposal contained in the Bill was assented to by the representatives of Western Australia in Convention three years ago, was it not? || Mr. Parker: I am not aware. I was not a member of the Convention, and I have not read the debates. || The Hon. E. Barton: I think in that Convention it was carried without a division. || The Hon. C. C. Kingston: It was agreed to by the representatives of Western Australia in Convention in 1897? || Mr. Parker: I really do not know. || The Hon. E. Barton: 1898. || The Right Hon. C. C. Kingston: No, was it not Adelaide? || The Hon. A. Deakin: No, it is Melbourne. || The Right Hon. C. C. Kingston: You have laid some stress on the difficulty arising from the distance of your Colony from the others — your representatives attending the sittings of the Federal Parliament — would not in a certain sense distance such as that afford some degree of protection to your producers from outside competition — the distance and the consequent difference in price? || Mr. Parker: Certainly, yes, in a degree. You understand, Mr. Kingston, I am not asking anything now; I am not asking for a right to impose those duties; it is only a question of the amount. || The Right Hon. C. C. Kingston: No, only a doubling of the rate. You speak as the representative, of course, of the Government of Western Australia. The Government was represented at the Federal Convention in 1897 and 1898? || Mr. Parker: I believe so. || The Right Hon. C. C. Kingston: And I believe the Government was represented at the Premiers' meeting last year? || Mr. Parker: Sir John Forrest was present. || The Right Hon. C. C. Kingston: Do you know that

it was then agreed that steps should be taken for the reference of the Bill to the people of Western Australia? || Mr. Parker: I know from the memorandum I have seen on the subject. || The Right Hon. C. C. Kingston: And that memorandum, of course, you know was signed by Sir John Forrest and the other Premiers? || Mr. Parker: Yes. || The Right Hon. C. C. Kingston: Is it not the fact that the majority of the Government have since voted against this reference? || Mr. Parker: I do not think so. There is only one member of the Government in the Upper House, and the Government in the Lower House carried a resolution referring the Bill to the people in two forms — the Bill and the Bill as amended. || The Hon. E. Barton: The Bill and something else? || Mr. Parker: The Bill in two forms. || The Hon. C. C. Kingston: Is it not the fact that the majority of the Government of Western Australia voted against a carrying out of the Premiers' agreement after their Premiers had assented to it? || Mr. Parker: I do not think so. || The Hon. A. Deakin: As I understand, Mr. Parker, the proposal is that if this amendment be made Western Australia joins as an Original State? || Mr. Parker: Yes. || The Hon. A. Deakin: She elects her representative to the Federal Government, and they necessarily under the Constitution possess equal rights and powers with all the other representatives, and that is to be for a period of five years after the passing of the uniform tariff? || Mr. Parker: That is so.

The Hon. A. Deakin: Western Australia representatives would be members from the very inception, consequently they will be members from the time of the drafting and passing of the Commonwealth tariff, and this amendment which you propose says: — || „During a period of five years following the imposition by the Parliament of the Commonwealth of uniform duties of Customs, the State of Western Australia may, notwithstanding anything in this Constitution, continue to receive the same duties of Customs as are in force there at the passing of this Act." || And that the Parliament of Western Australia may decrease during that period, repeal or alter, but may not increase any of such duties, consequently the representatives of Western Australia would be voting upon a tariff which would not apply to themselves or their country. Would not that be an extremely anomalous position? || Mr. Parker: Is not that position already created by the Bill? It is already provided that Western Australia retains its duties. || The Hon. A. Deakin: Those duties, as you are aware, disappear in the fifth year? || Mr. Parker: Yes. || The Hon. A. Deakin: And consequently, as you say, the difficulty exists in a minor degree, but you see that it exists in a much more serious degree in your proposal, which leaves them for five years absolutely un-

touched by duties for which they must have voted? || The Hon. E. Barton: That is so, they are to share in framing the tariff of the Commonwealth. || Mr. Parker: After all five years is a very brief period. After that they will be affected by these duties. || The Hon. A. Deakin: Do you not think it would be necessary if this were carried, in consequence of this proposed amendment of yours, to introduce some other amendment, some condition as to the part they would play in framing a tariff not to affect themselves? || Mr. Parker: I do not know if it would be advisable to make an amendment to that effect; I should offer no objection to it. || The Hon. J. R. Dickson: I would simply ask Mr. Reeves whether, regarding the Constitution, he does not consider there is a sufficiently open door provided for the admission of New Zealand at any future time. || The Hon. W. Pember Reeves: No, sir; if we had thought that we should not now be appealing to Her Majesty's Government; we do not consider it sufficient. || The Hon. J. R. Dickson: Do you not think that whatever the feeling of Australia might be, the Federal Government would very favourably consider your application for admission to the Commonwealth at a future time. But New Zealand does not consider itself competent to assent, or whether the Constitution could be jeopardised by delay. There has been considerable trouble so far. That decision should be made simply on the hypothesis of what a considerable proportion of Australasia desire. || The Hon. W. Pember Reeves: I have stated already that as far as it may be possible to avoid delay and expense that we should welcome any means avoiding that, provided we retain the right of coming into Federation. As regards Mr. Chamberlain's suggestion, I say clearly that the „open door" amendment would be a very proper thing to put into a covering Bill. I have tried, sir, to explain why New Zealand has shown a reluctance to join the Federation. It has been absolutely necessary to proceed with caution. If I have failed to show that, I have failed to justify our action. || The Hon. Sir P. Fysh: I want to emphasise one point, Mr. Parker. Your Revenue is about £ 3 000 000 a year just now? || Mr. Parker: I believe for the year ending 31st March it was £ 2 890 000. || Sir P. Fysh: That is near enough for my purpose. And you state that the loss of Revenue, or rather the portions of Revenue that you gather from the duty upon eastern products, amount to £ 300 000 a year? || Mr. Parker: More than that. || Sir P. Fysh: I took your words down. || Mr. Parker: It is the loss we shall sustain by Federation by this Bill which is estimated at £ 300 000 a year. || Sir P. Fysh: Well, the actual loss of Revenue; you are gathering at the present moment by duties upon eastern products

£ 800 000 a year. These figures are from a return from yourselves. It is the intention to take one-fifth off that each year, so that out of £ 3 000 000 Revenue £ 150 000 a year would be the loss by coming in under this Convention. Now as to the people who are to be benefited, I should like you further to tell us, if you can, as nearly as possible the numbers you would divide as the goldfields population and the city and surburban populations, taking 160 000 people now as your population, and give us something like a fair division? || Mr. Parker: It is difficult to say. There has been no census of the Colony for some years, and it is almost impossible to estimate the somewhat migratory goldfields population, but I think that probably we might take it there are 100 000 people in the settled districts and 70 000 in the goldfields. || Sir P. Fysh: You say your settled districts would be represented by about 45 000 people, who eight years ago were the numbers of your census; and since then you say that 120 000 who have come in by the reasonable advantages offered by the larger population, and chiefly by the attraction of the goldfields: however, put in your own way, it is a question between 100 000 and 70 000 — 100 000 in the settled places and 70 000 in the goldfields — therefore the protection with respect to the products of your people would be considerably limited so far as the number of the population is concerned. The greater portion of your population would be those who have to pay the extra price by reason of this tariff which you propose to impose. That is what I wish to make out? || Mr. Parker: Probably. || Sir P. Fysh: You accept that? || Mr. Parker: The portions, but you must bear in mind although it is the greater portion of the population it is not the best portion of the population of the Colony, because, after all, it is those who settle, those who produce, who are the most desirable Colonists. That is why we desire if possible to encourage those engaged in agricultural and industrial pursuits. || Sir P. Fysh: Yes; I will not pursue that. That is all I wish to say. || The Attorney-General: I might just ask; it would, I suppose, be for the Government to decide, Mr. Barton, would it not? But, assuming any amendment were necessary, everything could be done easily within the period of a year, mentioned in your Bill as the time in which it should be proclaimed; on a question of time. || The Hon. E. Barton: If a second referendum were required? || The Attorney-General: I mean assuming it was required. || The Hon. E. Barton: It would need an Act of Parliament in each Colony. || The Attorney-General: I was only asking for the time. I did not assume myself it would be necessary, but assuming it is necessary, is a year not long enough? || The Hon. E. Barton: That largely depends on the time

of meeting of the various Houses. I take it these Acts might be passed in a very few months. On the other hand it might take six months to pass them. It is quite possible that even then the year would suffice. || The Right Hon. J. Chamberlain: I think we have only to thank these gentlemen. || The Hon. E. Barton: I wish to ask Mr. Parker this question. Am I to understand that, if this amendment necessitates a consequential amendment, the Government of Western Australia are willing that such an amendment should be put into this Constitution as a consequence of what is suggested by you? The representatives of Western Australia in the Federal Parliament have no right to discuss, or vote upon, the Federal Tariff. || The Hon. A. Deakin: During the „five years" interregnum? || The Hon. E. Barton: During the „five years" interregnum, yes. || Mr. Parker: I have no instructions on the subject, but I have no doubt they would assent to any such proposal.

The Hon. A. Deakin: Do you attach importance to the difference which exists between your proposed amendment and the clause in the Bill? The clause in the Bill requires that after uniform duties and customs have been imposed by the Federal Parliament, then the Parliament of the State of Western Australia shall determine the duties to be levied — that probably means an appeal to the people, certainly an appeal to Parliament, before the passing of a new tariff. Now your amendment carries on whatever duties and customs may be in force in Western Australia at the time of the passing of the Act, giving neither Parliament nor the electors an opportunity of considering what, under the altered circumstances of the case, as for instance the Federal Tariff, they would wish to do. Do you attach importance to that part of the amendment? || Mr. Parker: Of course there is some importance to be attached to that. There is no occasion under the amendment that I propose to re-enact the duties. The electors of the Colony would have it in their power to abrogate duties. That, they consider important. || The Hon. A. Deakin: Do you attach importance to the difference to which I have referred? you say you do attach some; have you any objections to the amendment being considered in the first form instead of the second, so that your Parliament, with the Federal tariff before it, shall be required to reconsider the position, and pass a fresh tariff? || Mr. Parker: I should recommend my Government to agree to that suggestion. || The Hon. A. Deakin: To accept the first form instead of the second? || Mr. Parker: To accept the first form. || The Right Hon. C. C. Kingston: New Zealand, I think, was represented at the Federal Convention in Sydney in 1891? || The Hon. W. Pember Reeves: Yes. || The Right Hon. C. C. Kingston:

Since then she has consistently declined to be represented at this Federal gathering, has she not? || The Hon. W. Pember Reeves: I could not say how many invitations we have declined, Mr. Kingston. We certainly declined one; whether we have had subsequent invitations I am not able to say. || The Right Hon. C. C. Kingston: Are you able to express any opinion as to the probability of New Zealand desiring to join the Federation? || The Hon. W. Pember Reeves: If you had asked me that question twelve months ago, I should have said there was very little hope. I am bound to say that last year more interest, much more interest seemed to be taken in the question. It received more support than I could have thought possible; more than that I will not say. || The Right Hon. C. C. Kingston: You do not think there is any immediate prospect of New Zealand joining the Federation, do you? || The Hon. W. Pember Reeves: I would say this, that if this concession is granted it would make it, in my opinion, a great deal more likely that we should join. || The Right Hon. C. C. Kingston: Do you think that New Zealand has any reason te apprehend any unfair treatment at the hands of the Commonwealth with reference to her admission under the powers of the Commonwealth under the Bill? || The Hon. W. Pember Reeves: I would not use the word „unfair". I am sure the Commonwealth would do nothing unfair, and nothing that the interests of its own citizens would not require, but there might be interests in the course of the next few years that might grow up which might affect the introduction of New Zealand. || The Right Hon. C. C. Kingston: Then if New Zealand could rely under the Bill for anything that is fair she does not want anything more, does she? || The Hon. W. Pember Reeves: Nothing more. || The Right Hon. Mr. Kingston: I know that it is the desire of New Zealand that, even whilst outside the Federation, her people should have the right of appeal to the High Court of Australia. Is it not intended that under such circumstances the decision of the High Court should be final, or is it suggested that that appeal should be simply another obstacle in the path of final justice? || The Hon. W. Pember Reeves: I am really unable to say. Of course, what is asked is the option of going to that Court, and I assume that if both litigants preferred to go to that Court rather than to go to the Privy Council, I could hardly imagine them wishing to go to both if they had gone through the two Courts in New Zealand already, our Court of Appeal and the Supreme Court.

The Right Hon. Mr. Kingston: I suppose you would consider it a mischief and not an advantage that another Court should be interposed in the path of final justice? || The Hon. W. Pember Reeves: In what way

is it a mischief? I do not consider an appeal to the Privy Council a mischief. || The Right Hon. Mr. Kingston: No, but you interpose a decision of the High Court. || The Hon. W. Pember Reeves: I should say an arrangement which should lay open to litigants four Courts in succession, the Court of Appeal, the Supreme Court, the High Court of Australia, and the Privy Council, would be embarrassing. I could hardly conceive such a thing; we do not ask such a thing, and we do not contemplate it. || The Right Hon. Mr. Kingston: You wish the power to go to the High Court for final decision. || The Hon. W. Pember Reeves: I want it to go to the High Court. I assume in that case of New Zealand the Court of Appeal would be cut out. || The Right Hon. Mr. Kingston: In the case of New Zealand the Court of Appeal would be cut out. || The Right Hon. J. Chamberlain: I thank you, gentlemen, for your attendance. || Mr. Parker: May I be permitted, Mr. Chamberlain, to say just one word? You mentioned, sir, that you presumed if this amendment I ask for were adopted, that it might cause some delay. I think probably it would not cause any delay. I take it that if this amendment were adopted the whole matter could be settled in Western Australia in the course of three months, and that probably would be before the Proclamation was published declaring a Federated Australia. And following up the amendment I suggested the third clause in the Bill would also require to be amended, because it mentions the names of the Colonies which would be united in the Federal Commonwealth; and I would propose as a further amendment the addition of the words: — || „If at any time before the Proclamation the Parliament of Western Australia passes an Act enabling that Colony to join the Commonwealth as an original State, the people of Western Australia may be included in the Proclamation and united in the Commonwealth." || The Hon. A. Deakin: Is that with or without consulting the people by referendum? || Mr. Parker: Oh, with. || The Hon. A. Deakin: It does not say so, and there is no provision for that. || The Right Hon. C. C. Kingston: I would like to ask, has Mr. Parker any reason for believing that the Bill, as proposed to be amended, would be more acceptable to the majority of the people of Western Australia than the Bill as it now stands? || Mr. Parker: Yes, I believe it would. I believe if the Bill were amended in the manner suggested it would be adopted by a very large majority of the people. || The Right Hon. C. C. Kingston: You know the amendment is strongly resented amongst the consumers? || Mr. Parker: It is not resented amongst the consumers except the goldfields' consumers. It must be borne in mind that the wage earners in the goldfields are paid proportionately to

the amount that they have to pay for their food, and a reduction in the cost of food would mean a reduction of wages. I do not think, therefore, it would affect them. || The Right Hon. C. C. Kingston: Is it not the fact that even in Perth, where the amendment is most strongly advocated, a resolution was lately carried at a public meeting against it? || Mr. Parker: I do not think it was. || The Right Hon. C. C. Kingston: At the Town Hall, just before you left. || Mr. Parker: No, I do not think so; I do not think there was a resolution carried against this. || The Right Hon. C. C. Kingston: Against any amendment of the Bill. || Mr. Parker: Was there? It may be, but you must bear in mind that you can get up a public meeting and you can carry anything. || The delegates from Western Australia and New Zealand then withdrew.

Nr. 13139. **GROSSBRITANNIEN.** — Der Kolonialminister an die Gouverneure von Neu-Süd-Wales, Viktoria, Queensland, Südaustralien, Tasmania. Legt die Einwände gegen Kap. 74 dar. Die Delegierten sollen zur Änderung dieses Punktes ermächtigt werden.

Sent 11 midnight, April 5, 1900.

Telegram. || The discussion with the delegates has been carried on in a most friendly spirit and with good result. Any desire or intention to interfere in any matter involving interests exclusively Australian is disclaimed by Her Majesty's Government, but they are confident that full weight will be given to their suggestions by your Ministers when urged on behalf of interests of United Kingdom, or as Trustees for the Empire at large. || Her Majesty's Government would have desired amendment as to various questions which have arisen, but are unwilling to risk delaying Federation by pressing their views, and the operation of Clause 74, in restricting the right of appeal to the Privy Council, is now practically the only matter at issue. || Her Majesty's Government object to this clause because (1) the term „public interests" is so vague and indefinite as to leave uncertainty in a matter where precision is of first importance, and increased litigation, due to applications for leave to appeal and the multiplication of arguable points on appeal, will be the result. || (2) A most important link of Empire would be seriously impaired, and the consequences would be far-reaching in allowing divergency to spring up where in the general interests unity and uniformity is most desirable. || (3) It can scarcely be to the interests of Australia that in important questions as to boundaries between powers of Commonwealth and States the final

decision should not lie with highest tribunal of Empire, beyond suspicion of local bias or predilection. || (4) Important questions may arise as to operation of Commonwealth Laws on British shipping, or generally as to whether such laws are *ultra vires*, which the Imperial Parliament can scarcely allow to be concluded by decision of Australian High Court. || (5) Commonwealth legislation on such subjects as fisheries may seriously affect the interests of subjects of other parts of the Empire, and in such matters Parliament could not expect them to submit to be deprived of appeal to an Imperial Court. || (6) Banks and other financial and commercial institutions having large interests in Australia entertain very strong feeling against the limitation, and weighty representations have been made on the subject to Her Majesty's Government. || (7) Her Majesty's Government feel that the actual restriction, and the power claimed to make further restriction equivalent to practical abolition of appeal, would be specially inopportune at the moment when they are considering terms of a Bill for enhancing the dignity and promoting the efficiency of the Judicial Committee by practically amalgamating it with the House of Lords, and providing for adequate permanent representation of the great Colonies in a new Court which it is proposed to create. Should Australian appeals be practically withdrawn, the new Court would be deprived of a large part of its value as providing a new sphere for co-operation between Colonies and Mother Country, and giving effect to some extent to ardent desire for closer relations now happily existing both in Mother Country and Colonies. || Her Majesty's Government feel that for these reasons and others which have been fully explained to delegates they must press for amendment of Clause 74, but it is their earnest desire that such amendment may be carried out in the way most agreeable to Australian sentiment, and so as to avoid if possible the necessity of delay and expense involved in a further referendum. || Several suggestions have been made with this object, but delegates feel that lack of instructions precludes them from discussing the form which any amendment should take, or the method by which effect should be given to it. It is also necessary that provision should be made for explaining that, as intended by the framers of the Constitution, the Colonial Laws Validity Act, 1865, will apply to Laws of a Commonwealth Parliament; there can be no difficulty in arranging suitable terms on this point. || I now earnestly appeal to your Government to co-operate with me in securing the unopposed passage of a Bill which, while accepting the Constitution proposed by the Colonies practically in its entirety, will also take account of the considerations urged above; and I trust that

your Ministers may see fit to enlarge the instructions to their delegate, and to give him authority to arrange with Her Majesty's Government the speediest and most satisfactory method by which these objects can be ensured.

Nr. 13140. **GROSSBRITANNIEN.** — Der Kolonialminister an den Generalagenten für Neu-Seeland. Antwort auf Nr. 13136.

Downing Street, April 10, 1900.

Sir, || I am directed by Mr. Secretary Chamberlain to inform you that he has received a letter from Western Australia, suggesting that, if it is impracticable to amend the draft Commonwealth Bill to meet the views of Western Australia by the substitution of five years' fiscal freedom for the sliding scale of Customs duties at present provided, it would be desirable to amend Section 121 of the Bill in order to allow the Federal Parliament, if it so pleases, to admit Western Australia to the Commonwealth hereafter on the terms desired by the Colony — it being presumed by the writer that the Parliament will, under Section 121 as it now stands, be able to admit new States to the Commonwealth only within the conditions of the Constitution, one of which conditions is free trade between the States. || Mr. Chamberlain would be glad to learn whether the Australian delegates hold this view as to the restricted effect of Section 121.

I am, &c.,

H. Bertram Cox.

Nr. 13141. **VICTORIA.** — Der Gouverneur an den britischen Kolonialminister. Erwiderung der australischen Minister auf Chamberlains Vorstellungen in Nr. 13139.

Received 6.45 p.m., April 22, 1900.

Telegram. || In accordance with request made by Premiers in conference, Melbourne, transmit following telegram:— || The Premiers of New South Wales, Victoria, Queensland, South Australia, and Tasmania, in conference assembled, having given full consideration to the despatches, from the Secretary of State for the Colonies respecting suggested amendments in the Commonwealth Bill, reply: — || (1.) While they fully recognise the feeling of the Imperial Government that vigilance on their part is essential in the interests of all parts of the Empire, and also the importance of securing the inclusion of Western Australia in the Federation

from the first, they cannot forget that by the enabling Acts and in pursuance of them (*a*) the framing of the Federal Constitution was expressly entrusted to the Convention of Representatives, specially elected by the people for the purpose, in all the Colonies, except Queensland and Western Australia, and that the final acceptance or rejection of the Constitution when framed was also remitted to the people; (*b*) the question as to appeals was, *inter alia*, considered by the Convention in Adelaide, and no appeal to the Privy Council was allowed. During the visit of the Premiers to England at the Jubilee, the matter was referred to by the Secretary of State for the Colonies, who urged reconsideration. It was accordingly reconsidered at the meeting of the Convention in Melbourne, and resolved in the opposite direction to the decision in Adelaide. Later, the matter was again discussed, and the compromise now in the Bill agreed to. It was yet again debated in the Premier's Conference prior to the last referendum, and no alteration was made in the form of the Bill. The vote was then taken and the Bill was adopted by a large majority of the electors; (*c*) the Commonwealth Bill belongs therefore in a very special sense to the people of Australia, whose only mandate to Governments and Parliaments is to seek its enactment by the Imperial Parliament in the form in which it was adopted by the people. || (2.) The Premiers believe that the Appeal Clause, as framed, could not work injuriously to any part of the Empire, although the proposed new Court of Appeal for the Empire would doubtless present attractions to the people of Australia. || (3.) The only alternatives suggested in the despatches are: (1) Amendment of the Bill and (2) postponement of its consideration. Of these two the Premiers do not hesitate to say that the latter course would be much more objectionable to Australians generally even than the former. || (4.) Without disputing the constitutional power of the Imperial Parliament to amend the Bill on its own responsibility, the Premiers respectfully urge that the voice of the Australian people given on the Bill as it stands should receive that favourable consideration which such a weighty referendum demands. The Premiers do not consider themselves as having authority to accept any amendments. They hope that the Colony of Western Australia, whose respresentatives assisted to frame the Bill and in the Convention almost unanimously agreed to Clause 95, may be urged to accept it as it stands. They think that the Bill already sufficiently provides for the admission of New Zealand.

Nr. 13142. **AUSTRALIEN.** — Die Delegierten, außer dem für Queensland, an den englischen Kolonialminister. Sie lehnen die verlangten Änderungen ab.

After the Conference held at the Colonial Office on the 5th April, 1900, the Right Honourable the Secretary of State invited the Premiers of the Australian Colonies which have forwarded the Commonwealth Bill to „co-operate" with him in securing an „amendment of clause 74 . . . . in the way most agreeable to Australian sentiment", trusting that they would „see fit to enlarge the instructions to their Delegates", and give them „authority to arrange with Her Majesty's Government the speediest and most satisfactory method" of doing so. The one remaining amendment of the measure which Her Majesty's Government have suggested has been fully considered by the Premiers in conference. As they have been unable to accept it, or to agree to withdraw, enlarge, or modify the instructions under which the Delegates are acting, it continues to be the common duty of the Delegates, each of whom is appointed to represent all of the federating Colonies, to press for the speedy passage of the Bill as prepared by the instructions, and indorsed by the votes, of the Australian people. In firmly preferring this request with all possible respect, the subscribing Delegates feel it to be desirable to offer some comment upon the Memorandum of the Secretary of State of the 29th March, 1900, not from any desire to unduly prolong controversy, but simply to prevent possible misunderstanding. || It is unfortunately a necessity that their remarks should be mainly confined to the legal issues raised by the Crown Law Officers, and chiefly upon legal lines. But at the outset the Delegates desire to once more affirm their conviction that the real question involved is only incidentally one of a legal character. So far as they discuss matters of interpretation or construction of the Commonwealth Bill, it is merely for the purpose of showing that they may be safely set aside even from the standpoint of the constitutional lawyer. They may be, and indeed are, worthy of the best examination in detail, and this the Delegates have endeavoured to give them, satisfied as they are that at best they affect only what in the present case may be termed side issues. It is hoped that they will be read in this light and not supposed to be fundamental because they are here again examined at some length. The substantial issue which it has been the first duty of the Delegates to submit, and which they again, with all deference, press upon the best attention of Her Majesty's Ministers, is that the Bill as prepared is the Australian Constitution in a double sense,

since it is not only Australian by origin, but by the deliberate indorsement of Parliaments and peoples. Any alteration of it not both absolutely essential and incapable of achievement by any other means and at any other time is to be deprecated as destroying the character of the measure so prepared, and re-opening numerous issues at present happily and conclusively settled. || The very preamble of the Commonwealth Bill, in language adopted after full debate as the foundation of the whole structure, sets out that the people of the Colonies which have adopted the Constitution, „humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established". An alteration such as is proposed would, therefore, at once vitiate the agreement to unite, and render this solemn declaration a violation of the facts. || It is to be gravely apprehended that if clause 74 be amended the persistent opponents of Federation and of this Bill would be encouraged to renew their agitation. A fresh Referendum, whatever its result, must involve further expense, delay, and vexation. If a Referendum were not granted it would be corectly asserted that the Bill no longer contained the contract which the people had accepted. In either case, the initiation of the Commonwealth would be embittered, and its earlist problems confused by the introduction of issues fruitful of strife. The Delegates are still confident that Her Majesty's Government will not find it incumbent upon them to adopt a course involving such consequences. || The anxiety of Her Majesty's Government that the Bill should be speedily passed is acknowledged with gratification. That it is their bounden duty to protect other interests besides those of Australia, if any such are injured, is as readily recognized. It is believed that the Commonwealth Bill has been framed with every due regard to this consideration, and that the Representatives who prepared it have left nothing undone to secure in its provisions just protection to the interests of the Mother-country and of the rest of the Empire, as well as of Australia. || As it is no longer in contemplation to alter the measure except as to clause 74, the effect of which would be nullified by amending Nos. 2 and 5 of the „covering clauses", the Delegates will confine their remarks as closely as possible to that part of the Bill. They are told that their previous Memorandum „abstains from discussing any of the suggested alterations on their merits". They venture respectfully to entertain a different opinion, and in support of it, they point to the fact that the elaborate Memorandum of Her Majesty's Government is of a nature which would scarcely have been thought ne-

cessary had not the merits of the suggestion been shown to be, at the least, arguable.

The Delegates, however, admit that they have forborne to dilate on the disadvantages to Australia which result from present appeals to the Privy Council, for not only are the delay and expense of these appeals incapable of serious dispute, and the evils patent which are inseparable from the want of judicial knowledge of Australian laws and conditions, but the Court as at present constituted is not attempted to be defended. Whether its proposed reconstitution will suffice from the Australian point of view must depend on subsequent Imperial legislation. If that legislation suffices, it will then be possible to confer on the reconstituted Court jurisdiction with reference to Australian appeals. But Australia has, for many years, sought to secure a remedy for the existing conditions, and when at length, after infinite pains she has formulated a scheme which satisfies Australian requirements, and which is ready for legislative enactment, it would manifestly be inequitable that its adoption should be postponed pending the consideration of some other remedial measure not yet prepared, and which may, or may not, be satisfactory. || Australia has not chosen this moment to present an alternative to the proposals of Her Majesty's Government, but the reconstitution of the Council is now presented as an alternative to the acceptance of the work on which Australia has been engaged for years, in the endeavour to cope with existing disabilities which must otherwise remain for an indefinite time until removed by means of which the details have not yet been submitted to Parliament. The Bench in Australia composed of Her Majesty's Judges is under no suspicion, and suffers from no stigma. When the proposal for the establishment of an Imperial Court of Appeal was submitted to the Premiers, they replied that such a Tribunal „would doubtless present attractions to the people of Australia". If, then, the measure creating such an Imperial Court be hereafter passed, containing a ready means by which its jurisdiction might be adopted by the Commonwealth in regard to issues involving the interpretation of local Constitutions, there would be no difficulty in the way of a cordial acceptance of the new Court by the Federal Legislature. Assuredly, the creation of the new Court would not be delayed by the immediate passage of clause 74. The desired end would thus be happily attained by an unexceptionable procedure without the friction likely to be generated by the amendment of the Commonwealth Bill. The establishment of the Commonwealth necessitates the immediate constitution of a Court to which speedy recourse may be had for the determination of differences

between the Commonwealth and the States as to their relative jurisdictions. The delay and inconvenience which would inevitably result if that Court were only to be found in England are surely too grave to be permitted. || The merits, however, are largely apart from the question whether the handiwork of the Australians in their Bill is open to improvement. In provisions which are not objected to they have provided the means for improvement by their own hands, when they think the day for it has come; but as the making of the measure is an act of self-government, so is the amending, and the question is whether this act of self-government can meritoriously be interfered with. || It is remarked that „the points of difference are few in number, and involve a minimum of alteration". There being now but one point of difference, is it not worthy of consideration whether friction and dissatisfaction should be created for the sake of so little, and whether the whole of the draft Bill should not be submitted to Parliament, and passed into law, in its present form, when it is as plain that the refusal would mean much to Australia as it is that the gracious concession of all cannot mean much to Her Majesty's Government or to Parliament. || It is not quite an accurate description of the Enabling Acts, under which the Referendum was taken, to say that they „formally referred to the ‚Constitution' only". Both in the Enabling Act and the Addresses the Constitution means the whole Bill. Take, for instance, the New South Wales Enabling Act of 1895, under which her Representatives in the Convention were elected. While section 3 states that the first of the chief objects of the Act is to provide for the framing of a „Federal Constitution for Australasia", clause 7 imposes on the Convention the duty of framing a Federal Constitution „in the form of a Bill for enactment by the Imperial Parliament"; and, having thus stated what it means by a Federal Constitution, the Act, whenever it afterwards refers to the Constitution, must be taken to refer to the Bill for enactment by the Imperial Parliament. Further, the Act provides for the adoption by the several Colonial Parliaments of Addresses to the Queen, praying „that the Constitution may be passed into law by the Imperial Parliament". The „Constitution", therefore, which was to be the subject of the Addresses, plainly meant the whole of the Bill for enactment by the Imperial Parliament referred to in clause 7. || Again, in the Act of 1899 making „provision for the acceptance and enactment of a Federal Constitution for Australia", the Preamble recites the preparation by the elected Convention of a draft Bill intituled „Draft of a Bill to constitute the Commonwealth of Australia", and that the said draft Bill „was duly submitted to the vote" at the first Referendum; and in

the whole of this enactment the „draft Bill" is the measure which is to be put to the vote, and the term „Constitution" is defined as „the draft of a Federal Constitution set out in the 3rd Schedule", turning to which we find it to contain the draft Bill, „covering clauses" and all. It was this draft Bill which was submitted to the final vote, and that is why the whole of it is send forward with the Parliamentary Addresses as „the accompanying Constitution", the enactment of which is prayed. || The Convention, then, did not act *ultra vires* of the Enabling Acts in preparing and submitting the covering clauses. The same consideration was given to them as to the rest of the Bill. They are part of the Constitution as defined in those Acts, in compliance with which they were submitted to the people. The Enabling Acts were passed, within their legislative powers, by the Parliaments of the several Colonies, and assented to by Her Majesty's Representatives, and no attempt has ever been made to disallow any of them. || It is quite true that there are ways in which the covering clauses could be altered without changing the meaning of the Schedule, but that is not the case with regard to the suggested alterations as to Privy Council Appeals, which is avowedly intended so to operate as to practically nullify clause 74. No Delegate and no Australian Minister has ever admitted, or even suggested, that it would be a preservation of the intercolonial compact of the electors to make such an alteration as this. || There is no utterance of Mr. Barton's, nor is there any inference to be drawn from any words of his, which can point to any acquiescence on his part in anything amounting to an amendment of the Schedule headed „The Constitution". The very passage quoted on p. 2 of the Memorandum of Her Majesty's Government from a speech of his at the Sydney meeting of the Convention in 1897 is an expression of his confidence, that the provisions of the „Constitution" itself would not be altered, and cannot be cited to show that he would acquiesce in amendments of its simply because they were made through the covering clauses. But the Delegates would remark that the question now under discussion should be considered in relation rather to the conclusions of the Convention and afterwards of the Premiers, as ratified by the electors, than to the expressions of individual representatives in debate. || It may here be made clear, if, indeed, it is not so already, that the Delegates do not put forward on the part of Australia any „claim to have a final voice in respect of matters which are not purely Australian". They believe, and with confidence, that there is no desire to prevent Australians from managing their own affairs, so long as in so doing they make no attempt to manage the affairs of other countries. They do not presume to doubt

that Her Majesty's Government, and the Parliament of the United Kingdom, being in a sense trustees for the whole of Her Majesty's dominions, regard it as their duty to see that no one part of the Empire exercises its self-governing powers in derogation of the rights of other parts of the Empire. On the other hand, if an extension of self-government is sought under circumstances which do not injuriously affect other parts of Her Majesty's dominions, the Australian people believe themselves to be entitled to such an extension. This is merely an assertion of the ordinary rights of British citizenship among Her Majesty's free white subjects.

The substantial questions then are — || 1. Whether clause 74 derogates from the rights of other parts of the Empire? and || 2. Even if it appears technically to do so, whether the clause would in its operation injuriously affect other parts of Her Majesty's dominions? || The Delegates confess their inability to see that an affirmative answer can be given to either of these questions. || As to the first question, the clause expressly reserves the rights, or, to use its own words, the „public interests" of every part of Her Majesty's dominions outside the limits of the Federation. It is said that „public interests" need legal definition. If the expression has no technical meaning, it must be construed in its ordinary and common-sense signification, and there ought to be no difficulty on the part of the average citizen in understanding the meaning of a term which he reads every day in his newspaper, and frequently employs in his speech. Where the question at issue concerns the legislative powers given by the Constitution to the Federal Parliament, or those conserved to a State, the „public interests" of another part of the Empire will be involved where it becomes necessary to define the extent to which, if at all, the exercise of such powers has impinged on those exercised by the Crown, or by the Imperial Parliament, or by the Legislature of any other part of the Queen's dominions. It is evident that this consideration meets most of the difficulties suggested in the Memorandum of the Government, inasmuch as in this class of cases the path of appeal to Her Majesty in Council cannot be barred by the clause. If, for instance, questions arise „whether legislation under any of the powers mentioned in paragraphs 1, 9, 10, 19, 20, 26, 27, 28, 29, 30, 37, and 38 of Article 51 of the Constitution is or is not *ultra vires*", and the legislation involves matters „affecting foreigners and foreign ships in Australia and in Australian waters, and their Treaty rights", clause 74 will not take away the right of appeal, for the public interests of Her Majesty's dominions outside Australia would be involved. Any other conclusion

would need for its support the somewhat embarrassing contention that in such instances there is no conflict of public interests. || If the interests of investors in Australian securities, or of shareholders in „industrial undertakings formed in the United Kingdom to carry on some great commercial enterprise in Australia", are touched as the result of Federal legislation, they can be equally touched now under those Constitutions which give the several Colonies the right to legislate for the peace, order and good government of those Colonies „*in all cases whatsoever*". These are powers in the every-day possession of each of the Colonies composing the Australian Federation: powers which are not grudged to them singly, but which are supposed to be dangerous in the hands of the Commonwealth they are about to form, and especially dangerous when the legal mind expresses itself judicially in Australia instead of at Westminster. Is this the time for such mistrust? || But assuming that the interests of these classes of subjects are not „public interests" of the parts of the Empire in which the subjects live, how can it be said that Imperial interests are affected by the subjection of enterprises in Australia to Australian laws, for the mere reason that these laws are to be interpreted by Her Majesty's Judges in Australia. British investors are content to lay out their money in other parts of the world under alien laws, interpreted by alien tribunals. Australians will be prone to doubt that such investors can be seriously alarmed at the prospect of having afforded to their investments in Australia the security of British laws administered by British Judges, a security which will never be questioned. The Memorandum refers to the high standing and ability of Australian Judges, although the basis of the Memorandum appears to imply a want of confidence in their trustworthiness. The capacity and impartiality of Judges drawn from Australia have lately been recognized by making them eligible to seats on the Judicial Committee of the Privy Council. Surely their possession of these qualities is not doubted because they sit in Australia, and admitted only when they are associated in their labours with Imperial Judges? Or can it be supposed that they are unable to discharge their duties adequately or without bias except on the opposite side of the world to that in which the cause of action arose? Our Judges are now appointed to hear the very class of causes in which it is suggested that they would prove unreliable if they heard them in Australia. || The Delegates fail to understand how the interpretation given to the Federal Constitution, or to the Constitution of an Australian State, is likely to derogate from the rights, or to injure the public interests of, for example, Hong Kong or Vancouver. The principles

of statutory interpretation are the same throughout the Empire, and when those principles are applied in Australia to extract the meaning of a clause or a phrase, the process is scarcely likely to diminish the security of life, liberty, or property elsewhere. If a controversy is finally decided by the High Court of Australia the decision will, of course, be a guide, *but in Australia only*, to the settlement of subsequent controversies in similar cases; but that is to-day the fact with respect to the decisions of the Superior Courts, in all parts of the Empire, when not appealed from; and however closely those decisions may be followed in the Courts which give them, it will scarcely be contended that they injuriously affect the rights of litigants in other parts of the Empire, or shake the principles upon which those rights are upheld. || It is, however, generally contended, in opposition to clause 74, that its operation would „tend to destroy uniformity of decision on constitutional questions", and would in this way raise confusion and uncertainty, which would be against the interests of the rest of the Empire. The principles of the interpretation of Statutes are so well understood that any lack of uniformity in that regard is out of the question. But in their application to the words of an Australian Constitution, the occasion for uniformity of the decisions with those given on the meaning of other Constitutions does not even arise. The decisions of the particular Court would be consistent, one with another, whether pronounced by the High Court or by the Privy Council; since the same Court does not usually give inconsistent judgments; but the questions which may be raised as to the construction of the Constitution must themselves differ so completely from questions affecitng Constitutions of different design, that uniformity of decision is in this respect as unattainable as it is undesirable. The Constitution of Canada is entirely different from the Commonwealth Bill in many points, but especially as regards the reservation of residuary powers affected by the enumeration in clause 5, and by the express reservations of clauses 106, 107 and 108. Uniformity of decisions in questions such as these would be an attempt to bring two differing Constitutions into line, with the result of confusion and disaster. || Judicial knowledge of local conditions is an essential to true interpretation which, nevertheless, differs with the conditions; and where the structural methods of two Constitutions are as widely apart as the countries to which they apply, and where also the local conditions are as far asunder as the methods or the countries, to strain after uniformity of decision is to grasp at peril with both hands. If uniformity of legislation in widely separate parts of the Empire is unattainable, as it will be so long as

men of British race are free, it cannot be said to be so important as to be essential to Imperial interests that there should be uniformity in the interpretation of dissimilar Constitutions. Moreover, sensible business people do not resort to lawyers at a distance from a country to find out what the law of that country is. If a merchant in London wants to know the Australian law affecting his interests he seeks the advice of competent counsel in Australia; he does not prefer the opinion on such questions of even the most eminent of English lawyers. Why is this? Clearly because his common sense tells him that an intimate knowledge of local laws and conditions is of the highest importance in the formation of a sound opinion. Suppose, then, that the leading counsel in Australia and the eminent jurist in England are both promoted to the Bench, will it follow that the promoted Englishman will understand the local law as well as his promoted brother in Australia, to whom a superior knowledge of that law was accorded in practice before his promotion? || Her Majesty's Judges in Her Australian Courts may be as fairly trusted to abstain from infringing the rights of Her subjects residing elsewhere as any Judges in any other of Her Courts. Justice is administered in the name of the Queen. The Courts, wherever situated, are constitutionally Hers, and the Judges are constitutionally Her selection, nor has it been found difficult to give Australian Judges the status of Privy Councillors. Her Advisers in Australia are, and will be, as responsible for wrong guidance as are Ministers in this Kingdom, and Australians are not so un-British as to admit that 4 000 000 of them cannot properly conduct their own affairs, or properly choose Judges who can say, better than any authority elsewhere, what those Australians mean in their Constitutions. It may, of course, be said that the Commonwealth Bill will be an Imperial Act. Nevertheless, it is an instrument of Government framed by chosen Australians and ratified by those who chose them. If the Australians had not made it the occasion for this discussion would never have arisen.

In discussing the first of the questions which they take to be involved, the Delegates have found it impossible to avoid touching the second; but probably it will be opposite to the second question to remark briefly on the contention, that to reserve to Her Majesty's Judges in Australia the final decision of a few Australian questions will shatter, or at least weaken, a „link of Empire". The Delegates reflect with pride that there are sentiments which will constitute eternal „links of Empire", but are quite unable to understand how there can ever be the least hope that we can merely, „by insuring uniform interpretation of the law throughout

the Empire, facilitate that unity of action for the common interests which will lead to a real Federation of the Empire". The „unity of action" and the „uniform interpretation of the law" seem to them wholly unrelated, and certain to remain so. The consciousness of kinship, the consciousness of a common blood, and a common sense of duty, the pride of their race and history, these are the links of Empire, bands which attach, not bands which chafe. When the Australian fights for the Empire, he is inspired by these sentiments, but no pratriotism was ever inspired or sustained by any thought of the Privy Council. || The Delegates fail to see how its monopoly of the right of final interpretation can tend to make the Australian feel that it binds his affections more closely to the mother of his race. The tie of affection will last as long as its causes. May that be for ever. The tie which is not rooted in affection is no boon, it is an injury, and yet we are told it is to be maintained lest Her Majesty's Judges in Australia should give interpretations to the British Laws and Constitutions of that land which will usurp the powers, or endanger the interests, of their fellow-subjects elsewhere. Even now Australian Legislatures have the power to make declaratory laws, and cases have arisen in which they have declared by Act of Parliament the meaning of their laws to be the reverse of that which the Judicial Committee has attributed to them. Will it be said that this legislative power thus exercised by Australians, to interpret finally their own laws, is a danger to British interests or a destroyer of any link of Empire? Unless the power is so chargeable its existence and exercise seem quite inconsistent with the position set up by the Memorandum of the Government. Why should not Australians have the alternative of interpreting their meaning on the Bench as in the Senate? Are their Judges less trustworthy than their legislators? || The Delegates are not unaware that representations, which they have not had the advantage of seeing or hearing, have on this subject been addressed to Her Majesty's Government. If they have come from private citizens they have generally emanated from members of the minority who have opposed the Bill. If they come from men of high official position, they are as destitute of authority as in all cases ought to be the pronouncements of officials in derogation of the action of Government when backed by Parliament and people. Contrast with these criticisms the explicit language of the Right Honourable G. H. Reid, speaking as Premier of New South Wales in August last: „There will be no safety or security for Australian union until it is known that the Bill that Australia has drafted for the Imperial Parliament to pass word for word is passed by

that august Tribunal word for word.“ Without citing the numerous expressions of similar opinions from leading public men of all parties in Australia, the subscribing Delegates may be forgiven if they refer to their own qualification sfor interpreting the views of the Australian people. Four of them were elected members of the Convention which framed the Bill, at a time when the Colony of Queensland was not represented in the Councils of Federation. One of them was the elected President of the Convention, another of them was elected to that Convention by the largest number of votes ever polled for any candidate in Australia, and he was subsequently made the leader of the Convention by the voices of all the Colonies. Mentioning these facts, merely to show that they speak from personal knowledge, the Delegates assure Her Majesty's Government that the proposed alteration of the Constitution, even through a covering clause, cannot fail to be distasteful and harassing to the Australian people. If they accepted the Constitution with such an amendment, it would be because they were made to choose between the bowl of intervention and the dagger of delay. || In conclusion, the Delegates submit that the object of all those who seek „to draw closer together all parts of the Empire“ will be best served in Australia by never permitting its Federation to be placed, under any circumstances, in even apparent opposition to „the larger question of Imperial Federation“. So far from there being any necessary conflict between the two movements, it has always been maintained in the Colonies that local union is an essential preliminary to any practical scheme of Imperial co-operation. The suggestion that they are antagonistic is therefore to be deprecated, as it is not only unjustified, but must deal a serious blow to the prospects of Imperial Federation all over Australia. || The Delegates therefore plead most earnestly with Her Majesty's Government that effect may be given to the representations made by the Australian Premiers in their recent telegram. That despatch makes it clear that the clause as it stands was repeatedly considered and ratified by Convention, Premiers, and people; that the electoral adoption of the Bill is a mandate to Executives and Legislatives to seek its enactment in the form which the people gave it by their representatives, and confirmed by their votes; that the Premiers decline to accept alterations, because that course is unauthorised in view of the mandate, and would therefore be improper; and that they decline to authorize others to do on their behalf that which they cannot rightly do themselves. This request implies no questioning of the trusteeship of Her Majesty's Government, of the wisdom of Parliament, or of its sovereign power; but often it has been the truest wisdom of sovereignty to abstain from the

exercise of its power, or so to exercise it only as to win the gratitude of those who are subject to its authority.

Edmund Barton.
Alfred Deakin.
C. C. Kingston.
P. O. Fysh.

Nr. 13143. **QUEENSLAND.** — Der Gouverneur an den englischen Kolonialminister. Die Kolonie teilt Chamberlains Standpunkt.

(Received 12.44 p.m., April 27, 1900.)

Telegram. || My Government are astonished at attitude of Mr. Deakin at Colonial banquet, and they are in favour of inclusion of your amendment *re* Privy Council in Federation Bill. The Premier says that the people of this Colony are strongly in favour of amendment. Chief Justices of South Australia, New South Wales, and Queensland, whom I have seen, are all strongly of opinion that you should insist on amendment without reference to local Parliaments.

Nr. 13144. **GROSSBRITANNIEN.** — Der Kolonialminister an den Gouverneur von Westaustralien. Die koloniale Regierung soll ernstlich die Schwierigkeiten zu heben suchen.

(Sent 4.5 p.m., April 27, 1900.)

Telegram. || Referring to my telegram of 5th April, as you are probably aware, Premiers of Federating Colonies have declared that they have no authority to accept amendments in Bill, and they have not given the delegates any instructions in regard to any suggestion. I cannot in these circumstances press the matter further, and I would now urge your Ministers earnestly to concider whether they should not, in the best interests of the Colony, as well as of Australia, make a resolute effort to bring the Colony into Federation at once. || Western Australia, unless it joins as original State, can only enter later on condition of complete intercolonial free trade. It will thus lose the temporary protection offered by Clause 95, and looking to present population of Colony, it may also be found difficult to secure such large representation as it would receive as original State, and which will enable Colony to secure adequate protection for all its interests in Federal Parliament. Your Ministers will also, of course, take into consideration effect of agitation of the Federalist party, especially in goldfields, if Western Australia does not enter as original

State. || In these circumstances it appears to me of utmost importance to future of Western Australia that it should join at once, and as your Ministers have done their best to secure modifications desired by Parliament I would urge them to take early steps for summoning new Parliament and laying position fully before it with a view to the action necessary for ascertaining wishes of people as to entering Federation. || If they agree to this course a clause will be inserted in Bill providing that if people have intimated desire to be included before issue of Her Majesty's Proclamation, Western Australia may join as original State.

Nr. 13145. **GROSSBRITANNIEN** — Das Kolonialamt an den Generalagenten für Neu-Seeland. Die australischen Minister haben den Wunsch Neu-Seelands abgelehnt.

Downing Street, April 28, 1900.

Sir, with reference to the letter from this Department of the 18th instant, enclosing copy of a telegram which had been sent to the Federation Colonies of Australia in regard to the wishes of your Government, I am directed by Mr. Secretary Chamberlain to acquaint you that the Premiers at their Conference at Melbourne have decided that they have no authority to accept any amendment of the Bill, and that they consider that the Bill already provides sufficiently for the admission of New Zealand. || In these circumstances Mr. Chamberlain does not feel justified in further pressing for amendments in regard to a question which appears to be one to be settled by the Australasian Colonies without Imperial interference.

C. P. Lucas.

Nr. 13146. **NEU-SEELAND.** — Der Generalagent an den englischen Kolonialminister. Antwort auf das vorige.

Westminster Chambers, 13 Victoria Street,
London, S.W., May 1, 1900. (May 2, 1900.)

Sir, I have the honour to acknowledge the receipt of your letters of the dates quoted in the margin. || I much regret that, in response to the hope expressed in my telegram to you of the 17th April, the Right Honourable the Secretary of State did not see his way to telegraph to the Governors of the Federating Colonies that Her Majesty's Government were prepared to „favourably" consider the amendment desired by New Zealand, should the Premiers of those Colonies think it unobjectionable. || While thanking the Right Honourable the Secretary of State for the courteous

attention he has personally given to the case of New Zealand, I have also to regret that he did not see his way to grant me, as the representative of New Zealand, a position of advantage in urging my Colony's case equal to that accorded to the delegates from the Federating Colonies. || I also regret to note that the Right Honourable the Secretary of State appears to be of opinion that the insertion of a covering clause preserving an „open door" for New Zealand, for, say, seven years, might delay the passing of the Commonwealth Bill. As such an amendment would not involve a Referendum, I am unable to believe that it would delay the Bill. || I have also to regret that the Right Honourable the Secretary of State is of opinion that the matter of the amendment desired by New Zealand is one for settlement by the Australasian Colonies themselves. I especially regret this, because it is virtually impossible that the matter can be settled by the Australasian Colonies themselves. Owing to the peculiar position of the Australian Commonwealth Bill, no authority, except the Imperial Parliament, exists for dealing with the question, and it appears therefore to me to be easy to understand why under such circumstances no Australian statesmen are prepared to take the responsibility of advocating any concession, however slight and just, tending to safeguard the interests of New Zealand. || As, therefore, the course suggested by the Right Honourable the Secretary of State is manifestly impossible (inasmuch as no body exists in Australia authorised to deal with the matter), my Government respectfully adheres to its position, and still trusts that Her Majesty's Government may be pleased, either by the insertion of a clause in the Imperial Act covering the Commonwealth Bill, or by such other step as may seem advisable, to protect the endangered interests of New Zealand. || The loyal and important Colony of New Zealand, whose present and future interests are certain to be deeply affected by the legislation which the Imperial Parliament is about to consider, only asks to be assured under the Commonwealth Bill that it will be accorded no worse treatment than was given to more than one North American Colony during the process of completing the Federation of the Canadian Dominion. || I cannot help thinking that such a question, in respect of which an appeal is made to the Imperial Government and Parliament of the British Empire, from one of its most patriotic dependencies, whose distant insular position entitles it to special consideration, ought not to be regarded as one undeserving of Imperial interference. || I venture to express a hope that provided the Right Honourable the Secretary of State sees no objection, my memorandum addressed to him on the 30th March, the report of

the remarks I made at the meeting at the Colonial Office on the 5th April, and the correspondence with yourself, of which this letter forms a part, will be laid before Parliament when the Commonwealth Bill comes on for consideration. W. P. Reeves.

Nr. 13147. **GROSSBRITANNIEN.** — Denkschrift zur Beantwortung von Nr. 13142.

Her Majesty's Government feel that no useful purpose will be served by a detailed discussion of all the arguments contained in the Memorandum of the 27th April, signed by four of the Australian Delegates, as most of them have been met by anticipation in the Memorandum of the 29th March. Nothing would be gained by the repetition of arguments which have already been sufficiently developed, and Her Majesty's Government feel that the time has come when further written discussion of the position adopted by the Delegates with reference to the amendments suggested by Her Majesty's Government is unnecessary. There are, however, one or two points which deserve a brief comment, even at the risk of some repetition. || It cannot fairly be contended that the approval given by the people of the Australian Colonies in favour of the proposals for Federation submitted to them is to be taken as an unqualified and considered ratification of every detail of the Constitution, and that no single provision of the measure can be altered without contravening the deliberate decision of the majority of the electors of Australia on that point. || The only other point to which Her Majesty's Government think it necessary at this stage to allude has reference to the statements made in the seventh paragraph of the Memorandum of the 27th April respecting the alleged disadvantages which at present attend appeals to the Privy Council. || Her Majesty's Government believe that these appeals are not attended with such delay and expense as are suggested, and they are not aware of any justification of the statement that there are patent evils arising from the want of knowledge of Australian Laws and conditions. || It has never been admitted, nor can it be justly asserted, that the Court of the Privy Council as at present constituted is incapable of defence. Her Majesty's Government refer to the statement in their Memorandum of the 29th March, that the administration of justice by the Privy Council has been, on the whole, such as to command the confidence of the Empire. This statement is amply justified by the history of that Tribunal, and no inference to the contrary can properly be drawn from any proposals for still further improving its constitution. ||

The excellent work which has been done by the Judicial Committee in deciding the extremely difficult and delicate questions which arose between the Dominion and the Provinces of Canada is of itself a complete refutation of the idea that the Tribunal as at present constituted needs any defence. || The amendments which have been proposed by Her Majesty's Government are based upon no mistrust of the people of Australia; the sole desire of Her Majesty's Government is that, in a matter which affects not only the welfare of Australia, but the interests of the whole Empire, the Bill should be passed in a form which will be best alike for Australia and for every other part of Her Majesty's dominions. In the attempt to attain this result Her Majesty's Government confidently hope that they will have the co-operation and the support of the Australian people.

4th May 1900.

Nr. 13148. **WETSAUSTRALIEN.** — Der Gouverneur an den englischen Kolonialminister. Stimmt der Änderung von Kap. 74 zu.

(Received 8.55 p.m., May 6, 1900.)

Telegram. || Your telegram of 5th instant. I am strongly in favour, speaking as Chief Justice, of amending clause 74 so as to preserve the right of appeal, either to the Privy Council or to the House of Lords. || Ministers are unanimously in favour of the amendment in clause 74, which Her Majesty's Government desire. They are of opinion that, by the possession of one Court of ultimate appeal for the whole British race, whose decisions are final and binding on all the Courts of the Empire, there is constituted a bond between all British people which should be maintained inviolate as the very keystone of Imperial unity.

Nr. 13149. **GROSSBRITANNIEN.** — Das Kolonialamt an den Generalagenten für Neu-Seeland. Die Differenzen zwischen Neu-Seeland und den australischen Kolonien kann die Regierung nicht beseitigen.

Downing Street, May 7, 1900.

Sir, || I am directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 1st instant, on the subject of the amendment desired by New Zealand in the Australian Commonwealth Bill. || 2. With regard to your expression of regret that the Governors of the

Federating Colonies were not informed that Her Majesty's Government were prepared to consider favourably the amendment desired by New Zealand, Mr. Chamberlain desires me to say that he did represent the views of New Zealand to the Premiers of the Federating Colonies by telegram, dated April 17th, but that it seemed to him desirable that the Prime Minister of New Zealand should also himself communicate with the Prime Ministers of the Federating Colonies, and that if he had persuaded them to assent to his views, the amendment would, as a matter of course, have been favourably considered by Her Majesty's Government. 3. You further express regret that you were not accorded, as the representative of New Zealand, the same position of advantage in urging the Colony's case as was accorded to the delegates from the Federating Colonies. Mr. Chamberlain is not aware of your being, and trusts that you were not, at any disadvantage, except that at the conference at this Office, on the 5th of April, you and Mr. Parker representing Western Australia, withdrew from the conference after making your statements, and were not invited to stay for the subsequent discussion between the representatives of Her Majesty's Government and of the Federating Colonies. Mr. Chamberlain can only say that this limitation of the subsequent discussion to the representatives of the five Federating Colonies was adopted at the wish of the delegates themselves. || 4. The intervention of the Imperial Parliament would undoubtedly be necessary in order to enable the amendment desired by New Zealand to be introduced into the Bill, and if New Zealand could have come to an arrangement with the Federating Colonies, Her Majesty's Government would have readily proposed legislation for that purpose. But they would not feel justified in inviting the intervention of Parliament to impose the wishes of New Zealand on the Federating Colonies against their will. || 5. Her Majesty's Government fully and cordially recognise the claim of New Zealand upon their consideration, but, while this claim would have the greatest weight with them in a matter concerning only this country and New Zealand, it would hardly justify them in interfering in a difference between New Zealand and five other Colonies which take a different view, and in putting pressure on the majority to yield to the minority. || 6. I am to add that the whole of the papers on this subject, including your memorandum and your statement at the conference, will be laid before Parliament at an early date.

I am, &c.

H. Betram Cox.

Nr. 13150. **AUSTRALIEN.** — Bundesverfassung. Genehmigt 9. Juli 1900.

Der Text ist wie in Nr. 13132 mit folgenden Änderungen:

2. The provisions of this Act and of the Constitution set forth in the schedule to this Act referring to the Queen shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom.

3. It shall be lawful for the Queen, with the advice of the Privy Council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and also, if Her Majesty is satisfied that the people of Western Australia have agreed thereto, of Western Australia, shall be united in a Federal Commonwealth under the name of the Commonwealth of Australia. But the Queen may, at any time after the proclamation, appoint a Governor-General for the Commonwealth.

6. „The Commonwealth" shall mean the Commonwealth of Australia as established under this Act.

„The States" shall mean such of the colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, Western Australia, and South Australia, including the northern territory of South Australia, as for the time being are parts of the Commonwealth, and such colonies or territories as may be admitted into or established by the Commonwealth as States; and each of such parts of the Commonwealth shall be called „a State".

„Original States" shall mean such States as are parts of the Commonwealth at its establishment.

74. No appeal shall be permitted to the Queen in Council from a decision of the High Court upon any question howsoever arising as to the limits inter se of the Constitutional powers of the Commonwealth and those of any State or States or as to the limits inter se of the Constitutional powers of any two or more States, unless the High Court shall certify that the question is one which ought to be determined by Her Majesty in Council.

The High Court may so certify if satisfied that for any special reason the certificate should be granted, and thereupon an appeal shall lie to Her Majesty in Council on the question without further leave.

Except as provided in this section, this Constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her Royal prerogative to grant special leave of appeal from the High Court

to Her Majesty in Council. The Parliament may make laws limiting the matters in which such leave may be asked, but proposed laws containing any such limitation shall be reserved by the Governor General for Her Majesty's pleasure.

125. The seat of Government of the Commonwealth shall be determined by the Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth, and shall be in the State of New South Wales, and be distant not less than one hundred miles from Sydney.

Such territory shall contain an area of not less than one hundred square miles, and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor.

The Parliament shall sit at Melbourne until it meet at the seat of Government.

Zur Entstehung des russisch-japanischen Krieges von 1904.

Verhandlungen über Korea und die Mandschurei.*)

Nr. 13151. **JAPAN.** — Minister des Ausw. Baron Komura an den Gesandten in Petersburg Kurino. — Protest gegen die dauernde Besetzung der Mandschurei durch Rußland als bedrohlich für Korea und Japan. Soll die russische Regierung zu Verhandlungen auffordern.

Tokyo, July 28th, 1903.

(Telegram.) || The Japanese Government have observed with close attention the development of affairs in Manchuria, and they view with grave concern the present situation there. So long as there were grounds for hope that Russia would carry out her engagement to China and her assurances to other Powers on the subject of the evacuation of Manchuria, the Japanese Government maintained an attitude of watchful reserve. But the recent action of Russia in formulating new demands in Peking and in consolidating rather than relaxing her hold on Manchuria compels belief that she has abandoned the intention of retiring from Manchuria, while her increased activity along the Korean frontier is such as to raise doubts regarding the limits of her ambition. The unrestrained permanent occupation of Manchuria by Russia would create a condition of things prejudicial to the security and interest of Japan. Such occupation would be destructive of the principle of equal opportunity and in impairment of the territorial integrity of China. But, what is of still more serious moment to the Japanese Government, Russia stationed on the flank of Korea would be a constant menace to the separate existence of that Empire, and in any event it would make Russia the dominant power in Korea. Korea is an important outpost in Japan's line of defence, and Japan consequently sonsiders the independence of Korea absolutely

*) „Japan Times" 25. März 1904. Red.

essential to her own repose and safety. Japan possesses paramount political as well as commercial and industrial interests and influence in Korea, which, having regard to her own security, she cannot consent to surrender to, or share with, any other Power. The Japanese Government have given the matter their most serious consideration and have resolved to approach the Russian Government in a spirit of conciliation and frankness with a view to the conclusion of an understanding designed to compose questions which are at this time the cause of just and natural anxiety; and in the estimation of the Japanese Government, the moment is opportune for making the attempt to bring about the desired adjustment. || The Japanese Government, reposing confidence in your judgment and discretion, have decided to place these delicate negotiations in your hands. It is the wish of the Japanese Government to place their present invitation to the Russian Government entirely on an official footing, and you are accordingly instructed to open the question by presenting to Count Lamsdorff a Note Verbale to the following effect:

„The Imperial Japanese Government, believing that the Imperial Russian Government share with them the desire to remove from the relations of the two Empires every cause of future misunderstanding, would be glad to enter with the Imperial Russian Government upon examination of the condition of affairs in the Extreme East where their interests meet, with a view to a definition of their respective special interests in those regions. If, as is confidently hoped, this suggestion meets approval in principle, the Imperial Japanese Government will be prepared to present to the Imperial Russian Government their views as to the nature and scope of the proposed understanding."

In presenting the foregoing note to Count Lamsdorff, you will be careful to make him understand that our purposes are entirely friendly, but that we attach great importance to the subject. You will present the note to Count Lamsdorff as soon as possible, and keep me fully informed regarding the steps taken by you under this instruction; and immediately upon the receipt of an affirmative reply from the Russian Government, the substance of our proposals will be telegraphed to you.

Nr. 13152. **JAPAN.** — Kurino an Komuro. — Unterredung mit Lamsdorff, der mit dem Zaren über den Vorschlag Japans beraten will.

Petersburg, July 31ts, 1903. (Received, August 2nd, 1903.)

(Telegram.) || Your Excellency's telegram of the 28th instant was duly received. In accordance with the instructions contained therein,

I saw Count Lamsdorff to-day and, before handing to His Excellency the Note Verbale, I stated substantially as follows:

„The condition of affairs in the Far East is becoming more and more complicated, and unless something be done at present with the view of removing all causes of misunderstanding between Japan and Russia, the relations of the two countries will increase in difficulty, entailing nothing but disadvantages to both countries. Under the circumstances, the Imperial Government, fully animated by a spirit of frankness and conciliation, have decided to approach the Imperial Russian Government with a view to arrive at an understanding."

I then handed to him the Note Verbale, saying that I was so instructed. After he had seen it, I expressed my ardent hope that the Russian Government would share the above view in the same spirit, Count Lamsdorff said that he was perfectly satisfied with the decision of the Japanese Government, for, as he had said to me very often, an understanding between the two countries is not only desirable, but is the best policy; should Russia and Japan enter into full unterstanding, no one would in future attempt to sow the seeds of discord between the two countries. So far as he was concerned, he was, he said, in perfect accord with the view of the Japanese Government; but he wished to see the Emperor on the subject before a definite answer was given. He expects to see the Emperor next Tuesday, and promised to give me an answer on the following day. He added that the Emperor would surely approve the matter.

Nr. 13153. **JAPAN.** — Komura an Kurino. — Entwurf eines Vertrags; Garantie der Integrität Chinas und Koreas.

Tokyo, August 3rd, 1903.

(Telegram.) In reference to my telegram of the 28th July, the Japanese Government, after giving most serious consideration to the condition of affairs in those centres where the interests of the two Powers meet, have decided to propose the following as the basis of an understanding between Japan and Russia.

1. — Mutual engagement to respect the independence and territorial integrity of the Chinese and Korean Empires and to maintain the principle of equal opportunity for the commerce and industry of all nations in those countries.

2. — Reciprocal recognition of Japan's preponderating interests in Korea and Russia's special interests in railway enterprises in Manchuria,

and of the right of Japan to take in Korea and of Russia to take in Manchuria such measures as may be necessary for the protection of their respective interests as above defined, subject, however, to the provisions of Artikle I of this Agreement.

3. — Reciprocal undertaking on the part of Russia and Japan not to impede development of those industrial and commercial activities respectively of Japan in Korea and of Russia in Manchuria, which are not inconsistent with the stipulations of Article I of this Agreement.

Additional engagement on the part of Russia not to impede the eventual extension of the Korean railway into southern Manchuria so as to connect with the East China and Shan-hai-kwan-Newchwang lines.

4. — Reciprocal engagement that in case it is found necessary to send troops by Japan to Korea, or by Russia to Manchuria, for the purpose either of protecting the interests mentioned in Article II of this Agreement, or of suppressing insurrection or disorder calculated to create international complications, the troops so sent are in no case to exceed the actual number required and are to be forthwith recalled as soon as their missions are accomplished.

5. — Recognition on the part of Russia of the exclusive right of Japan to give advice and assistance in the interest of reform and good government in Korea, including necessary military assistance.

6. — This Agreement to supplant all previous arrangements between Japan and Russia respecting Korea. In handing the foregoing project to Count Lamsdorff, you will say that it is presented for the consideration of the Russian Government in the firm belief that it may be found to serve as a basis upon which to construct satisfactory arrangement between the two Governments, and you will assure Count Lamsdorff that any amendment or suggestion he may find it necessary to offer will receive the immediate and friendly consideration of the Japanese Government. It will not be necessary for you to say much in elucidation of the separate items of the project as they are very largely self-explanatory, but you might point out that the project taken as a whole will be found to be but little more than the logical and essential development and extension of the principles already recognized by the two Governments, or of conditions embolied in the engagements which the project is designed to supplant.

The foregoing instruction is sent to you in anticipation that the answer to the Note Verbale presented by you will be favourable; but you will not act on that instruction until you receive further instructions

which will be given after you have communicated to me the answer to the Note Verbale.

Nr. 13154. **JAPAN.** — Kurino an Komura. — Lamsdorff ist zu Verhandlungen bereit.

Petersburg, August 5th, 1903. (Received, August 6th, 1903.)

(Telegram.) || Count Lamsdorff says he is authorized by the Emperor to open negotiations with me on the subject of the Note Verbale.

Nr. 13155. **JAPAN.** — Komura an Kurino. — Vollmacht für die Unterhandlungen.

Tokyo, August 6th, 1903.

(Telegram.) || In reference to your telegrams dated the 31st ultimo and 5 th inst., you will state to Count Lamsdorff that the Imperial Government fully appreciate the friendly spirit with which the Russian Government received the proposal of the Japanese Government to enter upon negotiations with regard to an understanding between the two countries, and then present at once the project to the Russian Government in accordance with instructions contained in my telegram of the 3rd instant.

Nr. 13156. **JAPAN.** — Kurino an Komura. — Hat Lamsdorff um Eile ersucht.

Petersburg, August 12th, 1903. (Received, August 14th, 1903.)

(Telegram.) || Count Lamsdorff, being now very much occupied, could not receive me until to-day, when I handed to His Excellency the proposed project in English in accordance with your instructions. I added that the longer the conclusion of an accord is postponed the more difficult will it become, as the condition of affairs in the Far East is now getting more and more complicated. I asked him to hasten the matter as much as possible. He said he would examine the project with care.

Nr. 13157. **JAPAN.** — Derselbe an Denselben. — Lamsdorff wünscht die Verhandlungen in Tokyo zu führen.

Petersburg, August 24th, 1903. (Received, August 25th, 1903.)

(Telegram.) || Count Lamsdorff received me yesterday by special arrangement, and I asked his views as well as the attitude of the Russian

Government regarding our proposals, adding that the Japanese Government are now impatiently waiting for a reply. He said that he had studied the project seriously, but that the Emperor having been absent over a week on account of the manœuvres, he had been unable to take any steps in the matter; but he asked my opinion about transferring the negotiations to Tokyo as there were many details which would have to be referred to Admiral Alexieff. I said to him that the Japanese Government having confided the matter to me, I should prefer to proceed with it, but that I was willing to communicate his opinion to you. || He stated that he has already sent copy of our project to Port Arthur with the view of obtaining the opinion of Admiral Alexieff. After such conversation, he said the question of Japanese railway enterprise in Manchuria would be difficult, but upon all other points perhaps the Russian Government would be able to come to an understanding. I said that in order to arrive at a satisfactory understanding, mutual concessions as well as spirit of conciliation are necessary and that the Japanese Government would be prepared to give favourable consideration if any suggestions should be made by Count Lamsdorff.

Nr. 13158. **JAPAN.** — Komura an Kurino. — Die Verhandlungen sollen in Petersburg geführt werden.

Tokyo, August 26th, 1903.

(Telegram.) || In reference to your telegram of the 24th instant, you will say to Count Lamsdorff that the Japanese Government would prefer to continue negotiations in St. Petersburg, believing that by so doing the work will be greatly facilitated. You can add that there are no details to be considered in connection with pending negotiations, which require local knowledge, and that the Japanese Government, having placed the negotiation in your hand, would dislike to make any change. You will say to Count Lamsdorff that the Japanese Government are anxiously awaiting a definite reply from his Government to their proposals, and you will continue to use every endeavour to obtain from him such a reply as soon as possible.

Nr. 13159. **JAPAN.** — Kurino an Komura. — Lamsdorff verläßt Rußland und will die Verhandlungen in Tokyo führen.

Petersburg, August 27th, 1903. (Received, August 28th, 1903.)

(Telegram.) || I saw Count Lamsdorff to-day on the subject of your telegram dated the 26th instant. He said he had audience of the Em-

peror last Tuesday, and was told that His Majesty desires very much the early conclusion of an *entente* satisfactory for both countries, and expressed his wish to conduct the negotiations at Tokyo so as to expedite the matter. Then Count Lamsdorff added that the Emperor is to leave here for the country next Monday, and then for foreign countries for some time, and at the same time the Ministers concerned would be absent from St. Petersburg. Consequently, negotiations in Tokyo would be much the easier and quicker way of concluding the matter. I said, referring to my conversation with Count Lamsdorff of the 23rd instant, that the proposed understanding involved mostly questions of principles and politics rather than details, and consequently that the continuation of negotiations at St. Petersburg would be proper and at the same time the quickest way to arrive at a satisfactory understanding. He repeated what he had just said and insisted upon his proposition. || Under the circumstances, I think it hardly possible to change the course now proposed by Count Lamsdorff under authority of the Emperor. I also think that negotiations at Tokyo would entail many disadvantageous consequences; and definite instruction for the further course is awaited.

Nr. 13160. **JAPAN.** — Komura an Kurino. — Er nimmt an, daß Rußland die japanischen Prinzipien acceptiert hat.

Tokyo, August 29th, 1903.

(Telegram.) || In reference to your telegram of the 27th instant, you will say to Count Lamsdorff that the Japanese Government still think that negotation will be facilitated if continued in St. Petersburg since the negotiations relate to principles and not details; and you will add that he and you having been duly authorized in the matter and the proposals of Japan having been presented to him, the Japanese Government had supposed that the seat of negotiation had been agreed to. You will accordingly urge upon Count Lamsdorff the desire of Japanese Government to continue the negotiations in St. Petersburg, and express a hope that his Government will reconsider the question. You will also say that the Japanese Government presume they are justified in assuming from the proposal to transfer negotiations to Tokyo, that our proposals are in principle acceptable to the Russian Government as the basis of negotiations.

Nr. 13161. JAPAN. — Kurino an Komura. — Lamsdorff will die japanischen Vorschläge erst prüfen lassen.

Petersburg, August 31st, 1903. (Received, September 2nd, 1903.)

(Telegram.) ‖ I saw Count Lamsdorff to-day and explained fully the purport of your telegram of the 29th instant. The substance of his reply is as follows:

He said that the negotiations relate to principles, but principles must be decided upon examination of local and practical questions. Accordingly the Russian Government desired to transfer the discussions to Tokyo on account of the necessity of consultation with Admiral Alexieff, and also to manifest a sense of deference to Japan as the proposal had been made by her, and that the acceptance of the proposal at St. Petersburg does not signify that the seat of negotiations should be at the same place. He added that the proposal to transfer the negotiations to Tokyo does not necessarily mean that our proposals are acceptable to the Russian Government, as bases for negotiations could not be determined without reference to practical questions concerning which Baron Rosen and Admiral Alexieff have much better knowledge than he himself. ‖ I urged as my opinion that this being the most important question of high politics between our two countries, perhaps the Emperor had much to decide, and consequently it would be very convenient if the negotiations were conducted at St. Petersburg, and wished his serious reconsideration of the question of transfer as such reconsideration is much desired by the Japanese Government. I objected also to the suggestion of transfer on the ground that the question relates to principles as well as to the direction of international political concerns which may not be within the powers conferred upon Admiral Alexieff. If I remember rightly, I said I understand that his authority is limited to mere questions of local administration. He said that on this question Admiral Alexieff would only be consulted and decide nothing, and added that he, Count Lamsdorff, is also desirous to settle the question as quickly as possible, and that is the reason why he suggested the transfer. The Russian Counter-Proposals are being prepared by persons having local knowledge, consequently the transfer of negotiations to Tokyo would expedite the matter. Should the negotiations be conducted at St. Petersburg, he would be obliged to attend to the matter personally with me; but this autumn he has to be long absent from the city on account of his attendance upon the Emperor. In case of his journey to Vienna and Rome, he may also visit a certain foreign country and would be liable to be frequently interrupted in the

negotiations. But in case of negotiations at Tokyo, he could direct them by telegraph, and telegrams from Tokyo could always follow him wherever he might happen to be; besides, he said, as we know very well, the Russian way of conducting business here is not very expeditious. At the conclusion, he said he is to have audience of the Emperor to-day, and will explain to him the reasons why an early understanding between the two countries is desirable as mentioned by me; and he promised to repeat to His Majesty the special desire of the Japanese Government to conduct the negotiations at St. Petersburg; but he added that no change of view on the subject could be expected.

Nr. 13162. JAPAN. — Komura an Kurino. — Lamsdorff soll sich deutlicher aussprechen.

Tokyo, September 2nd, 1903.

(Telegram.) || In reference to your telegram of the 31st ultimo, you will say to Count Lamsdorff that it being the acknowledged desire of both Powers to arrive at an understanding as soon as possible, the Japanese Government fear that discussions would be greatly protracted if the negotiations were now to be transferred to Tokyo without some accepted basis for negotiations; and you will add that the Japanese Government, having presented their proposals in concrete form to the Russian Government, believe that negotiations, wherever conducted, would be greatly facilitated if the Russian Government were primarily to announce whether such proposals can in principle be accepted as the basis for negotiations. The Japanese Government do not understand that the acceptance of those proposals as such basis would exclude amendments that might be regarded as necessary. On the contrary, such acceptance would merely fix a definite point of departure which is desirable in all negotiations and very important in the present case. You will use every endeavour to secure the desired announcement from the Russian Government.

Nr. 13163. JAPAN. — Komura an Kurino. — Rußland antwortet ein Gegenprojekt aus. Verlegung der Verhandlungen nach Tokyo empfehlenswert.

Petersburg, September 5th, 1903. (Received, September 6th, 1903.)

(Telegram.) || I saw Count Lamsdorff yesterday. With the view of preventing any misunderstanding about the sense of the instruction con-

tained in your telegram of the 2nd instant and also with the view of impressing upon the Russian Government the feeling of importance placed by the Japanese Government on the matter, I prepared a Note Verbale which I handed to him. We then had a rather prolonged discussion on the question. The substance of his remarks is as follows: —

According to his experience of 40 years in Foreign Office, negotiations of an international character had always been conducted on the proposals of one Power together with the reply of the other, and it was not usual to accept the proposition of one Power as the sole basis of negotiations. Baron Rosen had already been commanded by the Emperor to study seriously the proposition of the Japanese Government, and at the same time to prepare and elaborate Counter-Proposals in consultation with Admiral Alexieff, and, if the Japanese Government were willing to enter into negotiation, to commence immediately the *pourparlers* adopting the propositions of the Japanese Government and the Russian Counter-Proposals as the basis of negotiations. I said during the discussion that if the Russian Government were really animated by a desire to enter into a satisfactory arrangement with Japan, I should deem it highly necessary that the Russian Government should instruct their negotiators to adopt as the basis the Japanese proposals, or at least the essential principles thereof so as to facilitate the attainment of the object of the negotiation, for I am inclined to doubt if Admiral Alexieff is disposed to enter into negotiations with Japan in a spirit of conciliation which is of prime necessity in order to arrive at a satisfactory understanding. He said that when he received our project there were only two courses open for Russia to take, either to reject our proposals or to enter into negotiations on them. The Russian Government have adopted the latter course; this does not, however, signify acceptance of our project in its entirety or in principle; but having agreed to the proposition to enter into an *entente*, they have decided to examine the propositions and to prepare Counter-Proposals so that the two might be used as the basis of negotiations. Besides, he said that in our project there are certain clauses which could not be reconciled with Russian interests, and others which require modifications; and he could not say that the Russian Government accepted our proposals even in principle as basis, but only in conjunction with their Counter-Proposals. || Having exhausted every effort for the attainment of the desire of the Japanese Government, I am now fully convinced that it will not be possible to change the course proposed by Count Lamsdorff; and I think that there is no other way for Japan but to agree to his suggestion. Count Lamsdoff is to

leave here on the 10th instant for Darmstadt to attend the Emperor of Russia.

Nr. 13164. **JAPAN.** — Komura an Kurino. — Stimmt den Unterhandlungen in Tokyo zu.

Tokyo, September 9th, 1903.

(Telegram.) || In reference to your telegram of the 5th instant, you are hereby instructed to inform Count Lamsdoff that the Japanese Government consent to transfer negotiations to Tokyo, and you will add that the Japanese Government trust that instructions to the Russian Minister at Tokyo are of such a character as to enable him to present the Russian Counter-Proposals without delay and to proceed immediately with the negotiations.

Nr. 13165. **JAPAN.** — Kurino an Komura. — Vollmachten der russischen Unterhändler.

Petersburg, September 9th, 1903. (Received, September 10th, 1903.)

(Telegram.) || I saw Count Lamsdorff to-day. He said Baron Rosen and Admiral Alexieff have already been instructed by telegraph, by order of the Emperor, to prepare the Counter-Proposals as quickly as possible and to commence negotiations at the earliest date, and he does not think it necessary to repeat the same instruction.

Nr. 13166. **JAPAN.** — Komura an Kurino. — Besprechung der russischen Unterhändler.

Tokyo, September 24th, 1903.

(Telegram.) || Baron Rosen left Tokyo on the 22nd instant for Port Arthur. Previously to his departure, he called on me and told me that he had been instructed under Imperial order some time ago to hold himself ready to start at once for Port Arthur, whenever necessity might arise to do so, in order to expedite the preparation of the Russian Counter-Proposals between Admiral Alexieff and himself, and that he had just received from the Admiral a request to repair to Port Arthur for personal consultation on the subject. He added that he expected to come back within about eleven days.

Nr. 13167. **JAPAN.** — Komura an Kurino. — Vertragsentwurf Rußlands. Unabhängigkeit Koreas; Mandschurei liegt außerhalb der japanischen Interessensphäre.

Tokyo, October 5th, 1903.

(Telegram.) || Baron Rosen came back to Tokyo on the 3rd instant. He called on me on the same day and handed to me the following as the Russian Counter-Proposals, which, he said, was sanctioned by the Emperor of Russia, upon joint presentation by Admiral Alexieff and himself: —

1. — Mutual engagement to respect the independence and territorial integrity of the Korean Empire.

2. — Recognition by Russia of Japan's preponderating interests in Korea and of the right of Japan to give advice and assistance to Korea tending to improve the civil administration of the Empire without infringing the stipulations of Article I.

3. — Engagement on the part of Russia not to impede the commercial and industrial undertakings of Japan in Korea, nor to oppose any measures taken for the purpose of protecting them so long as such measures do not infringe the stipulations of Article I.

4. — Recognition of the right of Japan to send for the same purpose troops to Korea, with the knowledge of Russia, but their number not to exceed that actually required, and with the engagement on the part of Japan to recall such troops as soon as their mission is accomplished.

5. — Mutual engagement not to use any part of the territory of Korea for strategical purposes nor to undertake on the coasts of Korea any military works capable of menacing the freedom of navigation in the Straits of Korea.

6. — Mutual engagement to consider that part of the territory of Korea lying to the north of the 39th parallel as a neutral zone into which neither of the Contracting Parties shall introduce troops.

7. — Recognition by Japan of Manchuria and its littoral as in all respects outside her sphere of interest.

8. — This Agreement to supplant all previous Agreements between Russia and Japan respecting Korea.

Nr. 13168. **JAPAN.** — Komuro an Kurino. — Beginn der Verhandlungen.

Tokyo, October 8th, 1903.

(Telegram.) || In reference to my telegram of the 5th instant, I have begun discussion with the Russian Minister to Japan taking our propo-

sals and Russian Counter-proposals as the basis and with a view to secure, if possible, the recognition by Russia of the fundamental principles laid down in our proposals.

Nr. 13169. **JAPAN.** — Derselbe an Denselben. — Japan schlägt Anerkennung der beiderseitigen Vorrechte in Korea und in der Mandschurei vor.

Tokyo, October 16th, 1903.

(Telegram.) || In reference to my telegram of the 8th instant, negotiations are now going on between Baron Rosen and myself regarding the following proposals, which I had presented as amendment to the Russian Counter-Proposals: —

Article II. — Insert the phrase „including military assistance" between „assistance" and „to Korea". Change the word „civil" into „internal".

Article III. — Insert the phrase „the development of" between „impede" and „the commercial". „Undertakings" to be changed into „activities", and „taken" into „to be taken" and „them" into „those interests".

Article IV. — Recognition of the right of Japan to send troops to Korea for the purpose mentioned in the preceeding Article or for the purpose of suppressing insurrection or disorder calculated to create international complications.

Article VI. — Mutual engagement to establish a neutral zone on the Korea-Manchuria frontier extending..... kilometres on each side, into which neutral zone neither of the Contracting Parties shall introduce troops without the consent of the other.

Article VII. — To be struck out and replaced by the following three Articles: —

VII. — Engagement on the part of Russia to respect China's sovereignty and territorial integrity in Manchuria and not to interfere with Japan's commercial freedom in Manchuria.

VIII. — Recognition by Japan of Russia's special interests in Manchuria and of the right of Russia to take such measures as may be necessary for the protection of those interests so long as such measures do not infringe the stipulations of the preceeding Article.

IX. — Mutual engagement not to impede the connection of the Korean railway and the East China railway when those railways shall have been eventually extended to the Yalu.

Article VIII of the Russian Counter-Proposals to be numbered Article X.

Nr. 13170. **JAPAN.** — Komura an Kurino. — Rußland lehnt die japanischen Vorschläge ab und will die mandschurische Frage mit China allein verhandeln.

Tokyo, October 22nd, 1903.

(Telegram.) || The result of discussions between Baron Rosen and myself on our amendments to the Russian Counter-Proposals is as follows: —

Amendments to Articles II and VI accepted, *ad referendum*, Article III accepted, and Article IV reserved for further discussion. It is in Article VII of our amendment to Article VII of the Russian Counter-Proposals that no agreement could be reached, each insisting on the impossibility of accepting the other's proposition. The contention of the Russian Minister is: — 1st, that the Russian Article VII is the only compensation to Russia for the concessions to be made by her in respect of Korea; and 2nd, that admission of the Japanese amendments on this point would be contrary to the principle always insisted on by Russia that the question concerning Manchuria is one exclusively for Russia and China admitting of no interference on the part of any third Power. || Our contention is: — 1st, that Japan does not ask for any concession from Russia with respect to Manchuria, her proposing being simply to have confirmed in the Agreement the principle which has been voluntarily and repeatedly declared by Russia; and 2nd, that Japan possesses in Manchuria her treaty rights and commercial interests, and she must obtain from Russia a guarantee for the security of those rights and interests as well as of the independence of Korea which would be constantly menaced by Russia's definitive occupation of Manchuria.

Nr. 13171. **JAPAN.** — Komura an Kurino. — Weitere ergebnislose Verhandlungen.

Tokyo, October 29th, 1903.

(Telegram.) || In reference to my telegram of the 22nd instant, as the result of further discussions, the amendment on Article IV was finally accepted *ad referendum*. Regarding Article VI, my proposal of fixing the extent of the neutral zone at 50 kilometres on each side of the frontier was accepted *ad referendum*. As to Article VII, no agreement could yet be reached.

Nr. 13172. **JAPAN.** — Derselbe an Denselben. — Neue Vorschläge Japans. Unabhängigkeit und Integrität Chinas und Koreas; Mandschurei außerhalb der japanischen, Korea außerhalb der russischen Interessensphäre.

Tokyo, October 30th, 1903.

(Telegram.) || I presented to Baron Rosen on the 30th instant the following as definite amendments of the Imperial Government to the Russian Counter-Proposals: —

1. = Mutual engagement to respect the independence and territorial integrity of the Chinese and Korean Empires.

2. — Recognition by Russia of Japan's preponderating interests in Korea and of the right of Japan to give to Korea advice and assistance, including military assistance, tending to improve the administration of the Korean Empire.

3. — Engagement on the part of Russia not to impede the development of the commercial and industrial activities of Japan in Korea, nor to oppose any measures taken for the purpose of protecting those interests.

4. — Recognition by Russia of the right of Japan to send troops to Korea for the purpose mentioned in the preceding Article or for the purpose of suppressing insurrection or disorder calculated to create international complications.

5. — Engagement of the part of Japan not to undertake on the coasts of Korea any military works capable of menacing the freedom of navigation in the Straits of Korea.

6. — Mutual engagement to establish a neutral zone on the Korea-Manchurian frontier extending 50 kilometres on each side, into which neutral zone neither of the Contracting Parties shall introduce troops without the consent of the other.

7. — Recognition by Japan that Manchuria is outside her sphere of special interest and recognition by Russia that Korea is outside her sphere of special interest.

8. — Recognition by Japan of Russia's special interests in Manchuria and of the right of Russia to take such measures as may be necessary for the protection of those interests.

9. — Engagement on the part of Japan not to interfere with the commercial and residential rights and immunities belonging to Russia in virtue of her treaty engagements with Korea, and engagement on the part of Russia not to interfere with the commercial and residential rights

and immunities belonging to Japan in virtue of her treaty engagements with Chine.

10. — Mutual engagement not to impede the connection of the Korean railway and the East-China railway when those railways shall have been eventually extended to the Yalu.

11. — This Agreement to supplant all previous Agreements between Japan and Russia respecting Korea.

Nr. 13173. JAPAN. — Komura an Kurino. — Unterbrechung der Verhandlungen. Japan verlangt Schutz seiner vertragsmäßigen Rechte in der Mandschurei.

Tokyo, November 1st, 1903.

(Telegram.) || Baron Rosen called on me October 31st and stated that the definite proposals which I presented to him as amendments to the Russian proposals as reported in my telegram of the 30th October were beyond his instructions and that he would, November 1st, telegraph the full text of the said proposals to his Government and ask for further instructions. Accordingly you are instructed to see as soon as possible the Acting Minister for Foreign Affairs in the absence of Count Lamsdorff, and say to him that in preparing the proposals in question, the Japanese Government did not fail to take into full consideration the wishes of the Russian Government. You will inform him that in proposing a joint engagement to respect the independence and territorial integrity of China equally of Korea, the Japanese Government were merely asking a reaffirmations of declarations already spontaneously made by Russia, and when it is considered that Russia is prepared to make such an engagement respecting Korea, the reason for excluding China is not understood. The Japanese Government are prepared to admit that the Manchurian question, so far as it does not affect their rights and interests, is purely a Russo-Chinese question; but Japan has extensive and important rights and interests in that region, and the Japanese Government think that in declaring that Manchuria is outside their sphere of special interest, they are at least entitled to ask for a correlative engagement on the part of Russia not to interfere with the commercial and residential rights and immunities belonging to Japan in virtue of her treaty engagements with China. You will in addition point out that the invitation of the Japanese Government which originated the present negotiations, had in view a definition of the special interest of Japan and Russia in those regions of the Far East where the interests of the two powers meet. The Japa-

nese Government could not have anticipated that the Russian Government, in accepting that invitation, would wish — as might be inferred from Article VII of their Counter-Proposals, — to restrict the proposed definition exclusively to the region in which Japan possesses special interests.

Nr. 13174. **JAPAN.** — Kurino an Komura. — Der Stellvertreter Lamsdorffs, Obolensky, sieht die ganze Schwierigkeit in der Eisenbahnfrage.

Petersburg, November 3rd, 1903. (Received, November 3rd, 1903.)

(Telegram.) || I saw the Acting Minister for Foreign Affairs on the 2nd November. He said, as his personal opinion, that Japan is making the same demands only in different form and that those demands are too great. I asked in what respects the Japanese Government are considered to be demanding too much, and I added that we do not ask anything more than the recognition of existing treaty rights and immunities of Japan in Manchuria. He then stated that Baron Rosen had said nothing on the subject. The only difficulty, he said, is the connection of the Korean and Manchurian railways. To my question whether there are no other difficulties, he answered that the railway question is the only difficulty, although it had been accepted *ad referendum;* and in conclusion I asked him to use his best influence for the satisfactory solution of the question, as the Japanese Government are fully animated by the spirit of conciliation, and I urged him to advise Count Lamsdorff in the same sense and if possible, to approach the Emperor of Russia on the question. He said that he is willing to do so, and added that Count Lamsdorff will return at the end of this week.

Nr. 13175. **JAPAN.** — Kurino an Komura. — Unterredung mit Lamsdorff. Die Rechte der fremden Mächte in der Mandschurei bilden die Schwierigkeit.

Petersburg, November 13th, 1903. (Received, November 13th, 1903.)

(Telegram.) || I saw Count Lamsdorff November 12th, and asked whether he had received a copy of the telegram which I had handed to Prince Obolensky and whether any action had been taken in the matter. He answered that he had submitted the telegram to the Emperor, and that before his departure from Darmstadt, he sent under an Imperial order instructions to Baron Rosen to continue negotiations with the Japanese Government. I asked him whether it is on the basis of our

last proposal that Baron Rosen was instructed to go on negotiating. Count Lamsdorff said that Baron Rosen had been ordered by the Emperor to examine our last proposal with Admiral Alexieff and to make modification if necessary, and added that at this moment Baron Rosen and Admiral Alexieff must be engaged in the preparation of Counter-Proposals. I remarked to Count Lamsdorff that according to the view of Prince Obolensky, the connection of Korean and Manchurian railways is the question that divides the two Governments; but the Japanese Government having subsequently modified the article relating to the question, I cannot believe that it is the principal point on which an agreement can not be established. Count Lamsdorff replied that he thinks for his part that it is the Manchurian question which divides the two parties, as he had said from the very beginning the Russian Government consider always that this question is a question exclusively between Russia and China, and it must be reserved to his Government to take all proper measures to safeguard their very considerable interests in Manchuria by means of an arrangement with China. I explained to him that Japan is ever ready to recognize the special and considerable interests which Russia has in Manchuria, and that she has no intention whatever of trespassing upon them, but that Japan has a perfect right to demand that the independence and territorial integrity of China shall be respected and the rights and the interests of Japan in that region shall be guaranteed. Count Lamsdorff answered that the objection relates to the form rather than the substance of the proposal. In Manchuria other Powers also have rights and interests, and Russia cannot enter into special arrangement with each of those Powers regarding Manchuria. I observed that should the Russian Government be in accord with Japan in principle, it is deeply to be regretted that an understanding cannot be reached, merely because of failure to find a suitable formula by which to bring the two Governments to an arrangement, and that I could not but ardently ask him to use his influence to bring about a satisfactory solution according to the principles already admitted by Russia.

Nr. 13176. **JAPAN.** — Komura an Kurino. — Wünscht Beschleunigung der Verhandlungen.

Tokyo, November 21st, 1903.

(Telegram.) || Baron Rosen informed me November 20th, that he received a telegram November 14th from Admiral Alexieff to the effect that Admiral Alexieff had already forwarded the Counter-Proposals to St. Peters-

burg. Baron Rosen added that he had not yet received any instructions on the subject of the Counter-Proposals. Consequently you are instructed to see Count Lamsdorff as soon as possible, and after explaining to him Baron Rosen's statements as above, you will say that the Japanese Government are anxious to proceed with the negotiations with all possible expedition; and you will urge him to exert his influence to secure the early dispatch of instructions to Baron Rosen in order that then egotiations may be resumed and concluded without delay.

Nr. 13177. **JAPAN.** — Kurino an Komura. — Die Krankheit der Zarin behindert die Verhandlungen. Die Schwäche der chinesischen Regierung ist nach Lamsdorff die größte Schwierigkeit.

Petersburg, November 22nd, 1903. (Received, November 23rd, 1903.)

(Telegram.) || I saw Count Lamsdorff on the 22nd November. He said that the modifications are already in the hands of the Emperor; but on account of the illness of the Empress, the former does not attend to any business affairs; hence the delay. I asked him to use his best endeavours to obtain the earliest possible Imperial order on the question. He said in reply that it will be better for me to write him a note giving the purport of instructions I have received from you; then he will immediately send it to the Emperor. At the end of the conversation I asked whether it is not possible for me to get some information about the modifications proposed by Admiral Alexieff. He seemed rather puzzled to give a direct answer; but he said that the Russian Government are ready to enter into immediate agreement with Japan regarding Korea, even making large concessions, but as to Manchuria, Russia once took possession of the country by right of conquest; nevertheless, she is willing to restore it to China, but with certain guarantees assuring security to the enormous interests which Russia has in Manchuria. While China is still insisting upon her refusal to give such guarantees, it is not possible for Russia to come to any arrangement with a third Power respecting Manchuria, as the question is exclusively between the two countries concerned. Then I said that if I accurately judge the nature of our proposition, it is not the intention of the Japanese Government to interfere with direct negotiations between the two Governments concerned as may be seen from the first part of Article VII of our last proposition, but we only wish the independence and integrity of China as repeatedly declared on the part of Russia and security for our important interests

in that province. This is not for the purpose of interfering with the affairs of the two Powers concerned, but only with prevent misunderstanding between Russia and Japan regarding the province where both Powers have some interest; and I added that if in principle such an *entente* could in some form or other be arrival at, perhaps even negotiations between Russia and China might be more easely carried out. He thereupon repeated his request for me to write him a note as above mentioned, and that I should add my own opinion in it, and that he would immediately send it to the Emperor. He told me that he expects to have audience on the 25th November at Skernevice and that the note could be send to him towards this evening. I judge from the tone of Count Lamsdorff's conversation that the modifications proposed by Admiral Alexieff will not be favourable to our proposition regarding China and Manchuria.

Nr. 13178. **JAPAN.** — Komura an Kurino. — Verlangt Beschleunigung der Verhandlungen.

Tokyo, November 28th, 1903.

(Telegram.) || You report in your telegram of November 22nd that Count Lamsdorff expected to have audience of the Emperor on the 25th instant. Accordingly you are instructed to see Count Lamsdorff as soon as possible and ask him what action has been taken regarding further instructions to Baron Rosen.

Nr. 13179. **JAPAN.** — Kurino an Komura. — Krankheit der Zarin.

Petersburg, November 27th, 1903. (Received, November 28th, 1903.)

(Telegram.) || Count Lamsdorff told me he did not see the Emperor November 25th, on account of the sickness of the Empress. Interior inflammation of her right ear has necessitated an operation. He said that he immediately despatched to the Emperor my note mentioned in my telegram of November 22nd.

Nr. 13180. **JAPAN.** — Komura an Kurino. — Soll dringend Beschleunigung verlangen.

Tokyo, December 1st. 1903.

(Telegram.) || The Japanese Government have from the first attached the highest importance to a speedy solution of the questions which form

at this time the subject of negotiations between Japan and Russia. It seemed to them that in a matter of such vital moment as that which engages the attention of the Cabinets of Tokyo and St. Petersburg, a quick conclusion was only second in importance to a satisfactory conclusion. Consistently with that view the Japanese Government have at all times during the progress of the negotiations made it a special point to give prompt answers to all propositions of the Russian Government. The negotiations have now been pending for no less than four months, and they have not yet reached a stage where the final issue can with certainty be predicted. In these circumstances the Japanese Government cannot but regard with grave concern the situation for which the delays in negotiations are largely responsible. You are instructed to see Count Lamsdorff as soon as possible and place the foregoing considerations before him in such form and manner as to make your representations as impressive as possible. You will add that the Japanese Government believe they are rendering service to the general interest in thus frankly explaining to the Russian Government the actual state of things.

Nr. 13181. **JAPAN.** — Kurino an Komura. — Beratungen innerhalb der russischen Regierung.

Petersburg, December 2nd, 1903. (Received, December 3rd, 1903.)

(Telegram.) || I heard that the Russian Government are still repeatedly communicating with Admiral Alexieff.

Nr. 13182. **JAPAN.** — Derselbe an Denselben. — Lamsdorff verspricht Beschleunigung der Verhandlungen.

Petersburg, December 4th, 1903. (Received, December 4th, 1903.)

(Telegram.) || Count Lamsdorff received me on the night of December 3rd. I handed him a French translation of your telegram of December 1st together with a letter which I addressed to him expressing fully the pressing situation under which the Japanese Government are now labouring. He said that the question requires consideration still, and he is in communication with Admiral Alexieff; but the Emperor is to return December 5th, and he said that he will fully explain the urgency of the matter on the occasion of his audience on the following Tuesday. He thinks he will then be able to send instructions to Baron Rosen. To my question whether it is not possible for him to have audience at an earlier date, he said that Saturday is the fête of Crown Prince, no business is

transacted on Sunday, and he will be occupied with other affairs on Monday. He promised to let me know the result of his audience next Wednesday.

Nr. 13183. **JAPAN.** — Derselbe an Denselben. — Binnen wenigen Tagen soll ein neues russisches Projekt eingereicht werden.

Petersburg, December 9th, 1903. (Received, December 10th, 1903.)

(Telegram.) || Count Lamsdorff told me December 9th that an Imperial order had been sent yesterday to Admiral Alexieff and Baron Rosen to continue the negotiations in accordance with the Counter-Proposals of Admiral Alexieff, but that the Japanese propositions have been fully considered. I asked whether he could inform me of the nature of the propositions on which Baron Rosen is authorized to continue the negotiations. He said that they will be officially communicated within two or three days through Baron Rosen to the Japanese Government.

Nr. 13184. **JAPAN.** — Komura an Kurino. — Russisches Grenzprojekt. Schweigt über Mandschurei.

Tokyo, December 12th, 1903.

(Telegram.) || Baron Rosen called on me December 11th and under instructions of his Government, officially presented to me the following Counter-Proposals of the Russian Government in reply to our definitive amendments as stated in my telegram of October 30th: —

1. — Mutual engagement to respect the independence and territorial integrity of the Korean Empire.

2. — Recognition by Russia of Japan's preponderating interests in Korea and of the right of Japan to assist Korea with advice tending to improve the civil administration.

3. — Engagement on the part of Russia not to oppose the development of the industrial and commercial activities of Japan in Korea, nor the adoption of measures for the protection of those interests.

4. — Recognition by Russia of the right of Japan to send troops to Korea for the purpose mentioned in the preceding Article, or for the purpose of suppressing insurrections or disorders capable of creating international complications.

5. — Mutual engagement not to make use of any part of the Korean territory for strategical purposes and not to undertake on the Korean

coast any military works capable of menacing the freedom of navigation in the Straits of Korea.

6. — Mutual engagement to consider the territory of Korea to the north of the 39th parallel as a neutral zone, within the limits of which neither of the Contracting Parties shall introduce troops.

7. — Mutual engagement not to impede the connection of the Korean and East China Railways, when those railways shall have been extended to the Yalu.

8. — Abrogation of all previous Agreements between Russia and Japan respecting Korea.

Nr. 13185. **JAPAN.** — Komura an Kurino. — Übersendet eine Verbalnote an Lamsdorff mit Amendements zum vorigen.

Tokyo, December 21st, 1903.

(Telegram.) || In an interview with the Russian Minister, December 21st, I pointed out the fundamental difference in territorial compass between Japan's original proposals and Russia's new Counter-Proposals, and after fully explaining the reasons which induced the Japanese Government to believe it to be desirable in the general interest to include in the proposed understanding all regions in the Extreme East where the interests of the two Empires meet, I expressed the hope that the Russian Government would reconsider their position regarding that branch of the question. I also informed him fully respecting the amendments which Japanese Government consider it necessary to introduce into Russia's new Counter-Proposals. Accordingly, in order to remove every possibility of misunderstanding on the part of Russia respecting the attitude of the Japanese Government, you are instructed to deliver to Count Lamsdorff a Note Verbale to the following effect:

„The Imperial Government have examined with great care and attention the new Russian Counter-Proposals of the 11th inst. They regret to find that the Imperial Government did not see their way in those proposals to give to the compass of the suggested understanding the same territorial extension as was deemed essential by Japan. The Imperial Government, in their original invitation to the Imperial Russian Government in August last, endeavoured to make it entirely clear that they desired, with a view to remove from their relations with the Imperial Russian Government every cause for future misunderstanding, to bring within the purview of the proposed arrangement all those regions in the Extreme East

where the interests of the two Empires meet, and they cannot bring themselves to the conviction that a full realization of that desire can be expected if a large and important portion of those regions is wholly excluded from consideration. Accordingly, the Imperial Government feel constrained to ask the Imperial Russian Government to reconsider their position on the subject, and they hope that the Russian Government will be able to see their way to arrive at a satisfactory solution of the question. The Imperial Government also find it necessary to ask for the following amendments to the new Russian Counter-Proposals:

„*a.* — Article II to read: „Recognition by Russia of Japan's preponderating interests in Korea and of the right of Japan to give Korea advice and assistance tending to improve the administration of the Korean Empire."

„*b.* — Article V to read: „Mutual engagement not to undertake on the Korean coast any military works capable of menacing the freedom of navigation in the Straits of Korea;" and

„*c.* — Article VI to be suppressed.

„As the principal part of these amendments cannot be said to be in excess of the modifications which were agreed to *ad referendum* at Tokyo and as the Imperial Government consider those changes indispensable, it is hoped that they will receive the ready agreement of the Imperial Russian Government."

In presenting the foregoing note to Count Lamsdorff, you will say that I have spoken to Baron Rosen in a similar sense, and you will also express the desire for an early response.

Nr. 13186. **JAPAN.** — Kurino an Komura. — Lamsdorff will vor einer Antwort mit Alexieff beraten.

Petersburg, December 23rd, 1903. (Received, December 24th, 1903.)

(Telegram.) || Upon receipt of your telegraphic instructions, I saw Count Lamsdorff December 23rd at 2 p.m. He told me he had received a telegram from Baron Rosen, stating that the latter had had an interview with you, and that particulars would follow, but such particulars had not been received yet by him. When I handed him the Note Verbale, he said that he would study it together with report from Baron Rosen, and that he would do his best to send the Russian answer at the earliest possible date; but he added that he would have to communicate with Admiral Alexieff. In conclusion, I stated to him that under the present circumstances it might cause serious difficulties, even complications,

if we failed to come to an *entente*, and I hoped he would exercise his best influence so as to enable us to reach the desired end.

Nr. 13187. **JAPAN.** — Kurino an Komura. — Lamsdorff verheißt neue Instruktion an Rosen.

Petersburg, January 1st, 1904. (Received, January 2nd, 1904.)

(Telegram.) || I saw Count Lamsdorff January 1st, and asked whether any action had been taken regarding our last propositions. He said they had been fully considered; and he asked me to assure you that Baron Rosen will soon be instructed to proceed with the negotiations in a friendly and conciliatory spirit, and he added that he saw no reason why we could not arrive at an *entente*.

Nr. 13188. **JAPAN.** — Komura an Kurino. — Neue russische Vorschläge. Neutrale Zone, militärische Beschränkung Japans in Korea.

Tokyo, January 7th, 1904.

(Telegram.) || Baron Rosen handed to me January 6th the following reply of the Russian Government to our last propositions of December 21st last: —

„Having no objection to the amendments to Article II of the Russian Counter-Proposals as proposed by the Imperial Japanese Government, the Imperial Government considers it necessary:

„1. — To maintain the original wording of Article V which had already been agreed to by the Imperial Japanese Government, that is to say, ‚mutual engagement not to use any part of the territory of Korea for strategical purposes, nor to undertake on the coasts of Korea any military works capable of menacing the freedom of navigation in the Straits of Korea‘.

„2. — To maintain Article VI concerning a neutral zone (this for the very purpose which the Imperial Japanese Government has likewise in view, that is to say, to eliminate everything that might lead to misunderstandings in the future; a similar zone, for example, exists between the Russian and British possessions in Central-Asia).

„In case the above conditions are agreed to, the Imperial Government would be prepared to include in the projected agreement an Article of the following tenor:

„Recognition by Japan of Manchuria and her littoral as being outside her sphere of interests, whilst Russia, within the limits of that province, will not impede Japan, nor other Powers in the enjoyment of rights and privileges acquired by them under existing treaties with China, exclusive of the establishment of settlements."

Nr. 13189. **JAPAN.** — Komura an Kurino. — Japan lehnt die russischen Vorschläge ab.

Tokyo, January 13th, 1904.

(Telegram.) || You are instructed to deliver to Count Lamsdorff a Note Verbale to the following effect which, you will say, is intended to confirm to him the views of the Imperial Government communicated by me to Baron Rosen on the 13th January: —

The Imperial Government, in order to arrive at a pacific solution of the pending questions and to firmly establish the basis of good relation between Japan and Russia, and in addition with a view to protect the rights and interests of Japan, have given most careful and serious consideration to the reply of the Imperial Russian Government which was delivered by His Excellency Baron Rosen on the 6th instant. They have finally come to the conclusion that the following modifications are necessary, i. e.: —

1. — Suppression of the first clause of Article V of the Russian Counter-Proposals (presented to the Japanese Government through Baron Rosen December 11th) that is to say, „not to use any part of Korean territory for strategical purposes".

2. — Suppression of the whole Article (VI) concerning establishment of a neutral zone.

3. — The Russian proposal concerning Manchuria to be agreed to with the following modifications:

a. — Recognition by Japan of Manchuria and its littoral as being outside her sphere of interest and an engagement on the part of Russia to respect the territorial integrity of China in Manchuria.

b. — Russia within the limits of Manchuria will not impede Japan nor other Powers in the enjoyment of rights and privileges acquired by them under the existing treaties with China.

c. — Recognition by Russia of Korea and its littoral as being outside her sphere of interests.

4. — Addition of an article to the following effect: —

Recognition by Japan of Russian's special interests in Manchuria and of the right of Russia to take measures necessary for the protection of those interests.

The grounds for these amendments having been frequently and fully explained on previous occasions, the Imperial Government do not think it necessary to repeat the explanations. It is sufficient here to express their earnest hope for reconsideration by the Imperial Russian Government.

It should be further remarked that the suppression of the clause excluding the establishment of settlements in Manchuria is desired because it onflicts with stipulations of the new Commercial Treaty between Japan and China. In this respect, however, Japan will be satisfied if she receives equal treatment with another Power which has already acquired similar rights in regard to settlements in Manchuria. The statement in the Russian reply that the Japanese Government have agreed to the original wording of Article V of the Russian Counter-Proposals is erroneous, no such agreement ever having been expressed by the Imperial Government.

The above-mentioned amendments being proposed by the Imperial Government entirely in a spirit of conciliation, it is expected thad they will be received with the same spirit at the hands of the Imperial Russian Government; and the Imperial Government further hope for an early reply from the Imperial Russian Government since further delay in the solution of the question will be extremely disadvantageous to the two countries.

Nr. 13190. **JAPAN.** — Komura an Kurino. — Soll Lamsdorff um Antwort bitten.

Tokyo, January 23rd, 1904.

(Telegram.) || You are istructed to sound Count Lamsdorff respecting the probable nature of Russia's reply to our last note and when the reply will be delivered.

Nr. 13191. **JAPAN.** — Kurino an Komura. — Zeitpunkt der Antwort ist unsicher.

Petersburg. January 25th, 1904. (Received, January 25th, 1904.)

(Telegram.) || In reference to your telegram of 23rd inst., I saw Count Lamsdorff January 24th and asked his views in regard to our last proposals and also how soon the Russian answer could be given.

He was not inclined to enter into details, but said that there are certain points to which he could not agree. He expects to lay his views before the Emperor next Tuesday, January 26th, and he hopes to be able to send an answer before long.

M. de Hartwig whom I saw this afternoon, told me that the Department of Foreign Affairs is yet in communication with Admiral Alexieff, and he cannot say how soon an answer can be sent to Japan.

Nr. 13192. **JAPAN.**—Komura an Kurino.—Ernste Aufforderung an Lamsdorff, die Verhandlungen zu beschleunigen.

Tokyo, January 26th, 1904.

(Telegram.) || As the situation admits of no indefinite delay in the settlement of the questions involved, you will seek an interview with Count Lamsdorff at the earliest opportunity and state to him as an instruction from your Government that in the opinion of the Imperial Government a further prolongation of the present state of things being calculated to accentuate the gravity of the situation, it is their earnest hope that they will be honoured with an early reply, and that they wish to know at what time they may expect to receive the reply.

Nr. 13193. **JAPAN.** — Kurino an Komura. — Lamsdorff beschwert sich über japanische Rüstungen.

Petersburg, January 26th, 1904. (Received, January 27th, 1904.)

(Telegram.) || In reference to your telegram of the 26th inst., the Russian Minister for Foreign Affairs said that the Ministers of War, Marine and other authorities concerned are to meet on the 28th January for the consideration of the question, and that their decision will be submitted to the Emperor for sanction, and he remarked that it had been the intention of Admiral Alexieff to come here; but that that idea was now abandoned, and his opinion will soon be received by telegraph. Under those circumstances, he says, he is unable to give the exact date when the reply will be given; but he can say it will not be much delayed. He said that he had received reports from official sources to the effect that Japan had sent a considerable number of troops, munitions and war materials to Korea, and asked me whether I could give any explanation regarding it. I simply answered that I knew nothing of such facts, and regretted not being able to give him any explanation.

He added that such action on the part of Japan causes a very bad impression, while the two Governments are engaged seriously in such important negotiations. Telegraph me for my information whether the reports are true, and if so, the details.

Nr. 13194. **JAPAN.** — Komura an Kurino. — Leugnet die japanischen Rüstungen; Gerüchte über russische Rüstungen.

Tokyo, January 28th, 1904.

(Telegram.) || In reference to your telegram of 26th instant, you will see Count Lamsdorff at an early opportunity and say to him that you have been authorized to deny positively the statement that Japan has sent to Korea a considerable number of troops, munitions and war materials. As a matter of fact, no troops have recently been sent to Korea nor any ammunitions have been sent beyond the amount required for the ordinary use of the Japanese troops stationed in Korea. You will then ask him whether the report that Russian troops are being concentrated on the Korean frontier is true, and if so, that such military movement is to be highly deprecated. Finally, you will ask him whether he is not able to acquaint you, for your own information, with the nature of the decision taken at the proposed conference of the Ministers on the 28th January, and whether he can indicate the approximate date on which the Russian reply is to be given.

Nr. 13195. **JAPAN.** — Kurino an Komura. — Lamsdorff leugnet die russischen Rüstungen. Verspricht keine schleunige Antwort.

Petersburg, January 28th, 1904. (Received, January 29th, 1904.)

(Telegram.) || Count Lamsdorff is satisfied with the explanation concained in your telegram of to day. As to the question regarding the concentration of Russian troops near the Yalu, he does not believe it to be true, and he remarked that such newspaper reports are very regrettable. I tried to obtain information about the decision of to-day's meeting. He said that it is not possible for him to say anything concerning it as it will not be sent to the Emperor, and that until the respective Ministers have been received by the Emperor respecting the question, nothing can be said definitely. He stated that the Grand Duke Alexis and the Minister of Marine are to be received in audience next

Monday, and the Minister of War and himself on Tuesday; and he thinks an answer will be sent to Admiral Alexieff on the latter day. I pointed out the urgent necessity to accelerate the despatch of an answer as much as possible, because further prolongation of the present condition is not only undesirable but rather dangerous. I added that all the while the world is loud with rumours and that I hoped he would take special steps so as to have an answer sent at an earlier date than mentioned. He replied that he knows the existing condition of things very well, but that the dates of audience being fixed as above-mentioned, it is not now possible to change them; and he repeated that he will do his best to send the reply next Tuesday.

Nr. 13196. **JAPAN.** — Komura an Kurino. — Soll einen Termin für die Antwort verlangen.

Tokyo, January 30th, 1904.

(Telegram.) || In reference to your telegram of January 28th, you are instructed to see Count Lamsdorff at the earliest opportunity and state to him substantially in the following sense: —

„Having reported to your Government that the Russian Government would probably give a reply on next Tuesday, you have been instructed to say to Count Lamsdorff that being fully convinced of the serious disadvantage to the two Powers concerned of the further prolongation of the present situation, the Imperial Government hoped that they might be able to receive the reply of the Russian Government earlier than the date mentioned by Count Lamsdorff. As it, however, appears that the receipt of the reply at an earlier date is not possible, the Imperial Government wish to know whether they will be honoured with the reply at the date mentioned by Count Lamsdorff, namely, next Tuesday, or if it is not possible, what will be the exact date on which the reply is to be given."

If Count Lamsdorff specifies the day on which the reply is to be given, you will see him on that day and ask him to acquaint you with the exact nature of the reply.

Nr. 13197. **JAPAN.** — Kurino an Komura. — Der Antwortstermin hängt vom Zaren ab.

Petersburg, February 1st, 1904. (Received, February 1st, 1904.)

(Telegram.) || Regarding your telegram of the 30th January, I saw Count Lamsdorff in the evening January 31st. He says he appreciates

fully the gravity of the present situation, and is certainly desirous to send an answer as quickly as possible; but the question is a very serious one and is not to be lightly dealt with. In addition, the opinions of the Ministers concerned and Admiral Alexieff had to be brought into harmony; hence the natural delay. As to the date of sending an answer, he says, it is not possible for him to give to exact date as it entirely depends upon the decision of the Emperor, though he will not fail to use his efforts to hurry the matter.

Nr. 13198. **JAPAN.** — Komura an Kurino. — Abbruch der Verhandlungen.

Tokyo, Feb. 5th, 1904. 2.50 p.m.

(Telegram.) || Further prolongation of the present situation being inandmissible, the Imperial Government have decided to terminate the pending negotiations and to take such independent action as they may deem necessary to defend their menaced position and to protect their rights and interests. Accordingly you are instructed to address to Count Lamsdorff, immediately upon receipt of this telegram, a signed note to the following effect: —

„The undersigned, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of Japan, has the honour, in pursuance of instructions from his Government, to address to His Excellency the Minister for Foreign Affairs of His Majesty the Emperor of all the Russias the following communication:

„The Government of His Majesty the Emperor of Japan regard the independence and territorial integrity of the Empire of Korea as essential to their own repose and safety, and they are consequently unable to view with indifference any action tending to render the position of Korea insecure.

„The successive rejections by the Imperial Russian Government by means of inadmissible amendments, of Japan's proposals respecting Korea, the adoption of which the Imperial Government regarded as indispensable to assure the independence and territorial integrity of the Korean Empire and to safeguard Japan's preponderating interests in the Peninsula, coupled with the successive refusals of the Imperial Russian Government to enter into engagements to respect China's territorial integrity in Manchuria which is seriously menaced by their continued occupation of the province, notwithstanding their treaty engagements with China and their repeated assurances to other Powers possessing interests in those regions,

have made it necessary for the Imperial Government seriously to consider what measures of self-defence they are called upon to take.

„In the presence of delays which remain largely unexplained and naval and military activities which it is difficult to reconcile with entirely pacific aims, the Imperial Government have exercised in the depending negotiations, a degree of forbearance which they believe affords abundant proof of their loyal desire to remove from their relations with the Imperial Russia Government every cause for future misunderstanding. But finding in their efforts no prospect of securing from the Imperial Russian Government an adhesion either to Japan's moderate and unselfish proposals or to any other proposals likely to establish a firm and enduring peace in the Extreme East, the Imperial Government have no other alternative than to terminate the present futile negotiations.

„In adopting that course the Imperial Government reserve to themselves the right to take such independent action as they may deem best to consolidate and defend their menaced position, as well as to protect their established rights and legitimate interests.

„The Undersigned, etc., etc."

Nr. 13199. **JAPAN.** — Komura an Kurino. — Abbruch der diplomatischen Beziehungen mit Rußland.

Tokyo, Feb. 5th, 1904, 2.15 p.m.

(Telegram.) || You are instructed to address to Count Lamsdorff a signed note to the following effect simultaneously with the note mentioned in my previous telegram: —

„The Undersigned, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of Japan, has the honour, in pursuance of instructions from his Government, to acquaint His Excellency the Minister for Foreign Affairs of His Majesty the Emperor of all the Russias that the Imperial Government of Japan, having exhausted without effect every means of conciliation with a view to the removal from their relations with the Imperial Russian Government of every cause for future complications and finding that their just representations and moderate and unselfish proposals in the interest of a firm and lasting peace in the Extreme East are not receiving the consideration which is their due, have resolved to sever their diplomatic relations with the Imperial Russian Government which for the reason named have ceased to possess any

value. || „In further fulfilment of the command of his Government, the Undersigned has also the honour to announce to His Excellence Count Lamsdorff that it is his intention to take his departure from St. Petersburg with the staff of the Imperial Legation on . . . . . date.

„The Undersigned, etc., etc.“

Nr. 13200. **JAPAN.** — Kurino an Komura. — Letzte Unterredung mit Lamsdorff.

Petersburg, Feb. 5th, 1904, 5.05 a.m.
(Received, Feb. 5th, 1904, 5.15 p.m.)

(Telegram.) || In compliance with the request of Count Lamsdorff, I went to see him at 8 p.m. February 4th. He told me that the substance of the Russian answer had been just sent to Admiral Alexieff to be transmitted to Baron Rosen. He added that Admiral Alexieff may happen to introduce some changes so as to meet local circumstances; but in all probability there will be no such changes. He then stated as his own opinion that Russia desires the principle of independence and integrity of Korea and also of necessity, the free passage of the Korean Straits. Though Russia is willing to make every possible concession, she does not desire to see Korea utilized for strategic purposes against Russia and believes it useful for the consolidation of good relations with Japan to establish by common accord a bufler region between confines of direct influence and action of the two countries in the Far East. The above is expressed entirely as his personal opinion, and I cannot say whether the same is the substance of the above-mentioned answer, though it seems to be very probable.

Nr. 13201. **JAPAN.** — Kurino an Komura. — Hat den Abbruch der Beziehungen der russischen Regierung mitgeteilt.

Petersburg, Feb. 6th, 1904, 5.57 p.m.
(Received, Feb. 7th, 1004, 5.45 a.m.)

(Telegram.) || In reference to your two telegrams of yesterday's date, I presented to Count Lamsdorff to-day at 4 p.m. the notes as instructed. I shall withdraw from here with my staff and students on the 10th instant.

Nr. 13202. **RÖMISCHE KURIE.** — Rundschreiben Pius X. über die unbefleckte Empfängnis. (Offizielle Deutsche Ausgabe „Kölnische Volkszeitung" 12. Februar 1904.)

2. Februar 1904.

Papst Pius X. || Den ehrwürdigen Brüdern, den Patriarchen, Primaten, Erzbischöfen, Bischöfen und sonstigen Oberhirten, die mit dem apostolischen Stuhle in Frieden und Gemeinschaft stehen, Gruß und Apostolischen Segen.

Ehrwürdige Brüder!

Noch wenige Monate, und das Jahr bringt uns den freudevollen Tag heran, an dem vor fünf Jahrzehnten Unser Vorgänger, Papst Pius IX. heiligen Andenkens, inmitten eines glänzenden Kreises von Kardinälen und Bischöfen, in Kraft seines unfehlbaren Lehramtes, feierlich aussprach und erklärte, es sei Gegenstand der göttlichen Offenbarung, daß die allerheiligste Jungfrau Maria, im ersten Augenblick ihrer Empfängnis, frei von aller Makel der Erbsünde bewahrt worden sei. Allmänniglich ist es bekannt, mit welch festlichen Kundgebungen der Freude und des Dankes von den Gläubigen auf dem ganzen Erdkreis dieser Ausspruch entgegengenommen wurde. Seit Menschengedenken ist keine allgemeinere und einhelligere Bezeugung der Liebe, sei es gegen die hehre Gottesmutter, sei es gegen den Stellvertreter Jesu Christi auf Erden, erlebt worden. — Gehen Wir nun in Unserer Erwartung zu weit, Ehrwürdige Brüder, wenn wir Uns der Hoffnung hingeben, daß bei dieser Erinnerungsfeier der unbefleckten Empfängnis der Jungfrau auch jetzt, nach Ablauf eines halben Jahrhunderts, ein lebhafter Widerhall dieser heiligen Freude in unseren Herzen anheben, und daß das herrliche Schauspiel des Glaubens und der Liebe gegen die Gottesmutter dieser entschwundenen Zeit sich erneuern werde? Diesen lebhaften Wunsch erweckt in Uns die der Allerseligsten Jungfrau gehegte Liebe, welche, ein Gnadengeschenk ihrer Güte, allzeit in Unserm Herzen reiche Pflege fand; zur sichern Hoffnung und Erwartung aber, daß dieser Unser Wunsch auch in Erfüllung gehen werde, berechtigt Uns die Liebe aller wahren Katholiken, die nie müde werden und immer bereit sind, der hehren Gottesmutter stets neue Beweise der Liebe und der Verehrung zu erbringen. Ja, wir wollen es bekennen, dieses Unser Verlangen entspricht einer gewissen inneren Stimme, die Uns zu sagen scheint, daß jetzt und bald jene Hoffnungen und Erwartungen erfüllt würden, zu denen Unser Vorgänger Pius, und mit ihm alle Bischöfe, nicht ohne Grund, sich gedrängt fühlten, wenn einmal die Wahrheit der unbefleckten Empfängnis als Glaubenssatz ausgesprochen wäre.

Freilich bedauern nicht wenige, daß diese Hoffnungen bis auf den heutigen Tag noch auf ihre Erfüllung warten lassen, und glauben mit Jeremias sprechen zu können: Wir hofften auf Frieden, und nichts Gutes ist geworden; wir hofften auf Zeit der Heilung und siehe! Schrecken. (Jer. VIII, 15.) Solch Kleingläubigen aber sollte man dieses verweisen; sie haben keinen Einblick in die Werke Gottes und vermögen sie nicht in Wahrheit zu beurteilen. Wer vermag die geheimen Gnadenschätze zu ermessen und aufzuzählen, welche Gott infolge der Dazwischenkunft der Jungfrau diese ganze Zeit hindurch der Kirche zugewendet? Aber abgesehen davon: haben wir nicht die ungestörte Abhaltung des Vatikanischen Konzils erlebt und damit die Glaubenserklärung der Unfehlbarkeit des Papstes, ein höchst zeitgemäßes Mittel gegen künftige Irrungen; haben wir nicht das Schauspiel eines neuen und nie dagewesenen Liebeseifers gesehen, der aus allen Ständen und Länderstrichen die Gläubigen heranzog, dem Stellvertreter Christi Verehrung und Huldigung zu erweisen? Was müssen wir nun von alledem denken und urteilen? Hat sich nicht eine ganz wunderbare Vorsehung Gottes an Unsern zwei Vorgängern, Pius und Leo, geoffenbart, die trotz der sturmvollen Zeit, in einer Regierungsdauer, wie sie kaum einem anderen verliehen war, die Kirche so heilig verwaltet haben? Kaum hatte ferner Pius die Wahrheit der unbefleckten Empfängnis Marias als Glaubenssatz ausgesprochen, als sich in dem Städtchen Lourdes die Jungfrau in Wundern zu offenbaren begann, und der Macht- und Prachtbau des Heiligtums der Unbefleckten sich erhob, bei dem auf ihre Fürbitte täglich noch Wunder geschehen, die geeignet sind, den Unglauben der Jetztzeit zu widerlegen. — So viele große Erweise von Güte hat Gott auf die milde Fürbitte der Jungfrau im Laufe dieser fünfzig Jahre erteilt; und sollen wir nun nicht hoffen können, daß unsere Rettung näher ist, als wir glaubten? Und dies um so mehr, da es der Erfahrung nach Gesetz der göttlichen Vorsehung zu sein scheint, daß Gott am nächsten ist, wo die Gefahr am höchsten. Nahe ist's, daß komme die Zeit, und ihre Tage werden nicht verlängert werden. Denn der Herr erbarmt sich Jakobs und erwählet nochmals Israel. (Isai. XIV 1.) So haben wir Hoffnung, bald rufen zu können: Zerbrochen hat Gott den Stock der Gottlosen. Es ruhet und schweigt die ganze Erde, sie freut sich und jubelt. (Isai. XIV, 5 und 7.) || Der Hauptgrund aber, weshalb Wir wünschen, daß die fünfzigste Jubelfeier der Erklärung der unbefleckten Empfängnis Marias als Glaubenssatz in der christlichen Welt einen neuen ungewöhnlichen Eifer anregen möchte, ist Unser, in Unserem neulichen Rundschreiben ausgesprochenes Verlangen, alles wieder aufzurichten in Christus. Denn wer sieht nicht ein, daß es kein sichereres

Mittel gibt, alle mit Christus zu vereinigen und durch ihn die vollkommene Kindschaft zu erlangen, damit wir selig und makellos vor Gott seien, als durch Maria? Wenn in Wahrheit Maria gesagt wurde: Selig bist du, welche geglaubt, daß alles, was dir gesagt worden von dem Herrn, vollendet werden wird (Luc. I, 45), nämlich daß sie den Sohn Gottes empfangen und gebären würde; wenn sie deshalb in ihrem Schoße den empfing, welcher die Wahrheit selbst ist, damit er, auf einem ganz neuen Wege und durch eine neue Geburt erzeugt, unsichtbar seinem Wesen nach, sichtbar in unserer Natur würde (S. Leo M. Serm. 2, de Nativ. Domini, c. 2), um als Sohn Gottes Mensch geworden, Urheber und Vollender unseres Glaubens zu werden, so folgt daraus notwendig, daß seine heilige Mutter, nachdem sie so Mitbewirkerin der göttlichen Geheimnisse geworden, auch als deren Bewahrerin und, nach Christus, als die vornehmste Grundlage angesehen werden müsse, auf welcher der Aufbau im Glauben durch alle Jahrhunderte auszuführen sei. || Oder hätte Gott vielleicht nicht auf einem anderen Wege, als durch die Jungfrau, uns den Wiederhersteller des Menschengeschlechtes und Urheber des Glaubens geben können? Nun war es aber der Ratschluß der göttlichen Vorsehung, uns den Gottmenschen durch Maria zu geben, die, überschattet vom heiligen Geiste, ihn in ihrem Schoße getragen; darum bleibt uns keine andere Wahl, als daß wir Christus empfangen durch Maria. Deshalb erscheint, so oft in der h. Schrift Prophezeiungen ausgesprochen werden von unserer künftigen Erlösung, neben dem Welterlöser auch seine heilige Mutter. Er wird gesendet als das Lamm, der Herrscher der Erde, aber von dem Felsen in der Wüste: er sproßt als Blume auf, aber aus der Wurzel Jesse. Schon Adam erblickte sie in der Ferne als die Zertreterin des Kopfes der Schlange und trocknete bei ihrem Anblick die Tränen über den Fluch, der ihn getroffen. An sie dachte Noe in der rettenden Arche und Abraham, als ihm Einhalt getan wurde, den Sohn zu opfern. Als die Leiter, auf welcher die Engel auf- und abstiegen, erschaute sie Jakob; Moses erkannte sie in dem brennenden und nicht verbrennenden Dornbusch; David begrüßte sie, als er beim Einzug der Arche sang und tanzte; Elias endlich gewahrte sie in der Wolke, die aus dem Meere stieg. Kurz, das Endziel des Gesetzes und die Wahrheit in den Vorbildern und Prophezeiungen finden wir, nach Christus, sicher in Maria. || Wahrlich, niemand, der bedenkt, daß die Jungfrau die einzige aus allen es gewesen, mit welcher Jesus, wie ein Sohn mit seiner Mutter, dreißig Jahre lang häuslichen Umgang pflegte, und durch die innigste Lebensgemeinschaft verbunden war, kann daran zweifeln, daß sie, und niemand wie sie, uns den Zugang zur Kenntnis Christi zu eröffnen

vermag. Wer erfaßte tiefer als sie, die Mutter, das Geheimnis der Geburt und der Kindheit Christi, vor allem das Geheimnis der Menschwerdung, das der Anfang und das Fundament des Glaubens ist? Sie bewahrte und überdachte nicht bloß in ihrem Herzen die Geschehnisse in Bethlehem und im Tempel zu Jerusalem bei der Darbringung, sondern, ganz eingeweiht in die geheimen Gedanken und Absichten Christi, lebte sie wirklich das Leben ihres Sohnes. Niemand wie sie hat Christus erkannt, und deshalb ist sie auch wie niemand anders die rechte Wegweiserin und die Führerin zu Christus. || Deshalb besitzt auch, wie Wir schon angedeutet haben, niemand mehr Macht, die Menschen mit Christus zu vereinigen, denn diese Jungfrau. Nach Christi Wort ist dies das ewige Leben, daß sie dich kennen den einzigen wahren Gott, und den du gesandt hast, Jesus Christus (Joh. XVII, 3). Da wir aber durch Maria zur lebenspendenden Kenntnis Christi gelangen, so werden wir auch um so leichter durch sie das Leben gewinnen, dessen Quelle und Beginn eben Christus ist. || Wie werden wir aber erst in dieser Hoffnung bestärkt, wenn wir überdenken, wie viele mächtige Gründe für Maria selbst bestehen, uns diese Gnaden zu vermitteln! || Oder ist Maria nicht die Mutter Christi? Dann ist sie aber auch unsere Mutter. — Das ist als Grundwahrheit von jedem festzuhalten: Jesus, das menschgewordene Wort, ist der Erlöser des Menschengeschlechtes. Wenn er nun als Gottmensch wie alle anderen Menschen einen greifbaren Leib angenommen, so hat er als Erlöser unseres Geschlechtes ebenso einen geistigen, mystischen Leib gewonnen; und dieser mystische Leib ist die Gemeinschaft derer, die an Christus glauben. „Wir, die Vielen, sind ein Leib in Christus“ (Rom. XII, 5). Nun aber hat die Jungfrau den ewigen Sohn Gottes nicht bloß empfangen, damit er, infolge der angenommenen Menschennatur, Mensch sei, sondern auf daß er, durch die Annahme dieser Menschennatur aus ihr, der Erlöser der Menschen würde. Deshalb sagte der Engel den Hirten: Es ist euch heute geboren der Erlöser, welcher Christus ist, der Herr (Luc. 11, 11). In einem und demselben Schoße der reinsten Mutter hat er Fleisch angenommen und sich zugleich einen geistigen Leib zugelegt, der aus denen besteht, die an ihn glauben würden. So kann man mit Recht sagen: Maria trug, als sie in ihrem Schoß den Erlöser umschloß, in demselben auch alle die, deren Leben in dem Leben des Erlösers eingeschlossen war. Alle also, so viele wir mit Christus vereinigt und, nach den Worten des Apostels, Glieder seines Leibes, von seinem Fleisch und von seinen Gebeinen (Ephes. V, 30) sind, wir alle sind gleichsam aus dem Schoße Marias herausgetreten als ein Leib, der mit dem Haupte vereinigt ist. Somit heißen wir geistiger und mystischer Weise mit

Recht Kinder Marias, und sie ist unser aller Mutter: freilich Mutter dem Geiste nach, aber doch durchaus Mutter der Glieder Christi, die wir sind. (S. Aug., L. de S. Virginitate, c. 6.) Die allerheiligste Jungfrau ist also Mutter Gottes und Mutter der Menschen. — Ohne Zweifel wird sie deshalb alles aufbieten, damit Christus, das Haupt des Leibes der Kirche, (Koloss. I, 18) uns als seinen Gliedern alle seine Gnadenschätze einflöße, vor allem, damit wir ihn kennen lernen und durch ihn leben (1. Joan. IV, 9). || Zum Lobpreis der heiligen Gottesgebärerin gehört also nicht bloß, daß sie den eingebornen Sohn Gottes, der mit menschlichen Gliedern geboren werden sollte, einen Teil ihres Fleisches bot (S. Bed. Ven., L. 4, in Luc. IX), um aus demselben ein Opfer zu bereiten für das Heil der Menschen, sondern daß sie das Amt übernahm, dieses Opferlamm zu beschützen, zu ernähren, ja zu seiner Zeit zum Opferaltar zu bringen. So bestand also zwischen dem Sohn und der Mutter eine nimmer unterbrochene Gemeinschaft des Lebens und der Leiden, und von beiden gilt das Wort des Propheten: Mein Leben verging in Schmerz und meine Jahre in Seufzer (Ps. XXX, 11). Als nun das Lebensende ihres Sohnes herankam, stand neben dem Kreuze Jesu sie, seine Mutter, und zwar nicht wie betäubt und schmerzverloren in dem Anblick des gräßlichen Schauspiels, sondern dem Geiste nach freudig bewegt, daß ihr Eingeborener für das Heil des Menschengeschlechtes zum Opfer dargebracht wurde; ja sie selbst litt mit solch lebhafter Teilnahme, daß sie, wenn dies tunlich gewesen wäre, alle Marter ihres Sohnes von Herzen gern für uns gelitten hätte. (S. Bonav. I, Sent. d. 48 ad litt. dub. 4.) Durch diese Teilnahme an den Leiden und der Liebe Christi verdiente Maria, daß auch sie mit Recht die Wiederherstellerin der verlorenen Menschenwelt wurde (Eadmeri Mon. De Excellentia Virg. Mariae, c. 9), und deshalb auch zur Ausspenderin aller Gnadenschätze, die Christus durch seinen Tod und sein Blut erkaufte, eingesetzt ward. || Damit wollen wir nicht gesagt haben, daß die Verleihung dieser Gnaden nicht eigentlich und rechtmäßig Christus zustehe, er ausschließlich hat durch seinen Tod die Gnaden uns erworben, und er ist von Amts wegen Mittler zwischen Gott und den Menschen. Aber infolge dieser Teilnahme der Mutter an den Leiden und Bedrängnissen des Sohnes, ist der hehren Jungfrau das Vorrecht geworden, daß sie bei ihrem eingeborenen Sohne nun die mächtige Mittlerin und Versöhnerin der ganzen Welt ist. (Pius IX. in der Bull. „Ineffabilis".) Christus ist die Quelle, aus deren Fülle wir alle erhalten (Joh. I, 16), von ihm aus wird der ganze Leib zusammengefügt und zusammengehalten durch jedes Band der Dienstleistung — und wird das Wachsen des Leibes bewerkstelligt zur Erbauung seiner selbst in Liebe

(Ephes. IV, 16). Maria ist, nach der richtigen Bemerkung des h. Bernard, „der Wassserkanal“ (Serm. de temp., in Nativ., B. V. [de Aquaeductu] n. 4), oder gleichnisweise der Hals, der den Leib mit dem Haupte verbindet und hinwieder Leben und Kraft von dem Haupte dem Leibe zufließen läßt. Sie ist der Hals unseres Hauptes, durch ihn werden alle geistlichen Gaben seinem mystischen Leib mitgeteilt (S. Bernardin. Sen. Quadrag. de Evangelio aeterno, Serm X, a. 3, c. 3). Nie und nimmer schreiben wir der Gottesmutter die Kraft der Gnadenbewirkuug zu, die gehört Gott allein an. Weil aber Maria alles an Heiligkeit und inniger Vereinigung mit Christus übertrifft und von ihm selbst zur Vollführung des Erlösungswerkes herangezogen wurde, in der Absicht, daß sie schicklichermaßen an uns vermittle, was er von Rechtswegen verdient hat, so ist und bleibt sie die vornehmste Mitwirkerin bei der Gnadenverteilung. Er sitzt zur Rechten der Majestät im Himmel (Hebr. I, 3), Maria aber steht als Königin zu seiner Rechten, als die bewährte Schützerin und zuverlässigste Helferin aller Gefährdeten; unter ihrer gnädigen und mächtigen Führung darf niemand fürchten, niemand verzweifeln (Pius IX in der Bull. „Ineffabilis“). || Auf dieses hin kehren Wir zu unserem Hauptsatz zurück. Scheinen wir nicht mit Fug und Recht behauptet zu haben, daß Maria, nachdem sie so treu zu Jesus gestanden, vom Hause in Nazareth bis zum Fels von Kalvaria, und vertraut wie niemand anders mit den Geheimnissen seines Herzens war, daß sie nun auch seine Verdienste gleichsam nach Mutterrecht verwaltet? Gibt es nun einen besseren, sicherern Weg zu Christi Kenntnis und Liebe als Maria? Sind nicht ein trauriger Beweis dieser Wahrheit leider gerade jene, die, betört durch die List des bösen Feindes, oder irregeführt durch falsche Vorurteile, meinen, der Hülfe der Jungfrau entbehren zu können! Die Armen und Unglücklichen meinen, Maria übersehen zu müssen, um Christus die Ehre zu geben, und wissen nicht, daß das Kind nicht zu finden ist als bei Maria seiner Mutter.

Dahin also, Ehrwürdige Brüder, sollen nach all diesen Ausführungen unserm Wunsche gemäß, die Festlichkeiten, die zur Ehre der unbefleckten Jungfrau allerorts bereitet werden, zielen. Keine Ehre ist Maria erwünschter, keine erfreulicher, als daß wir Jesus durch und durch erkennen und ihn lieben. Mögen die Gläubigen nur Festlichkeiten begehen in den Kirchen und die Städte sollen sich rüsten zu feierlichen Veranstaltungen und Freudenbezeugungen, das alles ist gut und trefflich, um die Andacht zu erwecken. Wenn sich aber dazu nicht der innere Geist gesellt, bleibt alles doch bloß äußerer Schein und ein Schatten von wahrer Religiosität. Und die Jungfrau könnte dann auch mit Recht gegen uns in die verur-

teilenden Worte Christi einstimmen: Dieses Volk ehrt mich bloß mit den Lippen; ihr Herz aber ist fern von mir (Math. XV, 8). || Das allein ist ja die wahre Verehrung der Gottesmutter, die vom Herzen quillt; und ohne den inneren Geist hat das äußere Werk weder Wert noch Nutzen. Das muß aber der innere Geist vor allem in uns bewirken, daß wir die Gebote ihres göttlichen Sohnes beobachten. Die wahre Liebe muß den Willen und die Herzen eins machen; somit muß unser Wille mit dem Willen Marias stimmen, nämlich Christus dem Herrn zu dienen. Was die Jungfrau in ihrer Weisheit bei der Hochzeit zu Kana zu den Dienern sagte: Was er euch sagt, das tuet (Joh. II, 5), das spricht sie auch zu uns. Das Wort Christi aber lautet: Wenn du zum Leben eingehen willst, halte die Gebote (Matth. XIX, 17). Davon möge also jeder überzeugt sein, wenn die Andacht, die jemand zur seligsten Jungfrau zu haben meint, ihn nicht von der Sünde abhält, und ihn nicht zu dem Entschlusse bringt, die bösen Gewohnheiten zu bessern, so ist das bloß eine äußere und eine trügerische Andacht, eine Andacht ohne die erforderliche Frucht. || Wenn jemand für diese Wahrheit noch einen Beweis erwartet, so läßt sich derselbe leicht herleiten aus dem Glaubenssatz der unbefleckten Empfängnis der Mutter Gottes selbst. — Sehen wir zunächst ab von der katholischen Überlieferung, die mit der Heiligen Schrift für uns die Quelle der Wahrheit ist; fragen wir nur, wie doch diese Ueberzeugung von der unbefleckten Empfängnis der Jungfrau Maria zu jeder Zeit so in der christlichen Anschauung liegen konnte, daß sie den Gläubigen wie eingeimpft und angeboren zu sein scheint? Dionysius der Karthäuser gibt uns die Erklärung mit den Worten: Abscheu und Entsetzen hält uns ab zu sagen, daß diejenige, die den Kopf der Schlange zertreten sollte, zu irgend einer Zeit von der Schlange zertreten wurde; und daß die, welche Mutter des Herrn sein sollte, jemals die Tochter des Teufels war (3. Sent., d. 3, q. 1). Nie und nimmer kann das christliche Volk einsehen und verstehen, wie das heilige, unbefleckte, unschuldige Fleisch Christi in dem Schoß der Jungfrau von einem Fleische genommen sein konnte, dem auch nur einen Augenblick die Sündenmakel anhaftete. Es stehen eben Gott und die Sünde in einem unendlichen und unversöhnlichen Gegensatz zu einander. Daher bei den katholischen Völkern die Überzeugung, daß der Sohn Gottes, bevor er uns nach Annahme der Menschennatur durch sein Blut von unsern Sünden reinigte, seine Mutter im ersten Augenblick ihrer Empfängnis durch ein besonderes Gnadenprivileg von jeder Makel der Erbsünde bewahren mußte. Wenn also Gott dermaßen die Sünde haßt und verabscheut, daß er die Mutter seines Sohnes nicht bloß von jeder persönlichen Sünde, sondern durch einen besondern Gnadenerweis, im

Hinblick auf die Verdienste Christi, auch von der Erbsünde, die allen Adamskindern wie ein Erbfluch anhaftet, befreit wissen wollte: dann muß offenbar die erste Anforderung an den, welcher ein Diener Marias sein will, die sein, daß er die verdorbenen und sündhaften Lebensgewohnheiten bessere und die Leidenschaften, die stets auf Verbotenes zielen, beherrsche und in Zucht halte. || Wenn aber jemand wünscht — und wer sollte das nicht? — die Jungfrau auf vollkommenere Art zu verehren, der muß natürlich weiter gehen und mit Ernst dahin streben, auch ihr Beispiel nachzuahmen. — Das ist die Anordnung Gottes, daß diejenigen, die selig werden wollen, das Vorbild der Geduld und Heiligkeit Christi nachahmen und in sich selbst ausprägen. Denn die er vorher erkannte, hat er vorbestimmt, dem Bilde seines Sohnes gleichgestaltet zu werden, damit er der Erstgeborne sei unter vielen Brüdern (Rom. VIII, 29). Unsere Schwäche ist aber gewöhnlich so groß, daß wir uns durch die Erhabenheit dieses herrlichen Vorbildes abschrecken lassen. Deshalb hat die göttliche Vorsehung uns ein anderes Vorbild vorgesehen, das einerseits, so weit es die menschliche Natur vermag, Christus ganz nahe steht, anderseits aber zu unserer Geringheit und Schwäche sich herabneigt. So gestaltet war Maria, sagt Ambrosius, daß ihr Leben die Schule aller ist. Und daraus folgert er dann ganz richtig: Als Vorbild diene euch das Leben der seligen Jungfrau, das gleich einem Spiegel die Keuschheit und jedwede Tugendschönheit wie verkörpert hervorleuchten läßt (De Virginibus I. 2, c. 2).

Die Kinder einer so heiligen Mutter sollten nun wohl in allen Tugenden es ihr nachtun; vorzüglich aber wünschen Wir, daß die Gläubigen jener ihrer Tugenden sich befleißen, welche unter allen den ersten Rang einnehmen und gleichsam die Hauptpfeiler des ganzen Gebäudes der christlichen Weisheit sind, nämlich der Glaube, die Hoffnung und die Liebe zu Gott und zu den Menschen. In Herrlichkeit strahlten die Tugenden im ganzen Lebenslauf der Jungfrau, besonders aber leuchteten sie strahlend auf, als sie ihrem Sohne im letzten Augenblick seines Lebens beistand. — Da hängt Jesus am Kreuze, und unter anderen Schmähungen und Verwünschungen wird ihm vorgeworfen, daß er sich zum Sohne Gottes gemacht habe (Joh. XIX, 7). Maria dagegen bekannte mit großer Standhaftigkeit die Gottheit in ihm und betete sie an. Mit ihren eigenen Händen trägt sie den Leichnam des Sohnes zu Grabe, aber zweifelt keinen Augenblick an seiner Auferstehung. Die Liebe aber, mit der sie zu Gott brannte, gab ihr den Starkmut, an den Leiden Christi selbst teilzunehmen und sich ihm zuzugesellen, und mit ihm bittet sie, ihrer Schmerzen vergessend, für die Mörder Gott um Gnade

und Verzeihung, während dieselben verhärtet und wütend schreien: Sein Blut komme über uns und unsere Kinder (Matth. XXVII, 25).

Doch, um nun zur Betrachtung der unbefleckten Empfängnis der Jungfrau zurückzukehren, deren Geheimnis nun einmal dieses unser Rundschreiben namentlich gilt, wie viele mächtige Beweggründe bietet uns gerade dieses Geheimnis, diese Tugenden zu bewahren und zu pflegen! Was ist wohl das erste, womit die Feinde und Hasser des Glaubens ihre Irrtümer nach allen Seiten zu verbreiten suchen und leider bei vielen den Glauben erschüttern? Sie leugnen, daß der Mensch gefallen, gesündigt und seiner ehemaligen Stellung verlustig gegangen sei. Deshalb geben sie die Erbsünde und alle ihre schlimmen Folgen, nämlich die Sündhaftigkeit des Ursprungs, die Verderbtheit des ganzen Menschengeschlechtes, die Einführung des Sündenübels in dasselbe und die folgende Notwendigkeit eines Erlösers als reine Märchen aus. Die natürliche Folge aus diesen Voraussetzungen ist, daß es für Christus, für die Kirche, für die Gnade und die übernatürliche Ordnung keinen Platz mehr in der Welt gibt. Mit einem Wort: das ganze Gebäude des Glaubens ist untergraben. Glauben im Gegenteil die Völker und bekennen, daß Maria die Jungfrau im ersten Augenblick ihrer Empfängnis von aller Sündenmakel freigeblieben ist, so heißt das eben so viel, als auch die Erbsünde, die Erlösung durch Christus, das Evangelium, die Kirche und selbst das Gesetz des Kreuztragens zugeben und annehmen; dann ist aber auch mit dem Rationalismus und dem Materialismus völlig aufgeräumt, und der christlichen Weisheit bleibt der Ruhm, Wächterin und Verteidigerin der Wahrheit zu sein. — Auch dieses gehört zu den Mitteln, durch welche die Feinde des Glaubens, namentlich heutzutage, in den Herzen den Glauben zugrunde richten, daß sie der Autorität der Kirche, und überhaupt jeder Oberhoheit unter den Menschen die schuldige Ehrfurcht und Unterwürfigkeit versagen und andere hierzu verleiten. Das sind die unseligen Keime des Anarchismus, ein Übel und eine Pest, wie es keine verhängnisvollere gibt für die natürliche und übernatürliche Ordnung in der Menschenwelt. Aber auch diese für die Staats- und Kirchenordnung so gefährliche Irrung vernichtet der Glaubenssatz von der unbefleckten Empfängnis der Gottesmutter; denn er verpflichtet uns, der Kirche die Gewalt einzuräumen, nicht nur über unseren Willen, sondern auch über unseren Verstand. Bloß in Kraft dieser Verstandesunterwerfung begrüßt das christliche Volk die Gottesmutter mit den schönen Worten: Ganz schön bist du, Maria, und die erbliche Makel ist nicht in dir (Grad. Miss. in festo Imm. Concept.). So bewahrheitet sich auch der glorreiche Lobpreis, den die Kirche der hehren Jungfrau spendet, daß

sie alle Ketzereien in der Welt vernichtet. || Der Glaube aber ist, wie der Apostel sagt, nur „die Wesenheit der Dinge, die wir zu hoffen haben“ (Hebr. XI, 1). Und so muß jeder einsehen, daß durch die unbefleckte Empfängnis der Jungfrau wie der Glaube, so auch die Hoffnung ihre Bestärkung findet. Und dieses um so mehr, da Maria bloß deswegen von der Erbsünde bewahrt wurde, weil sie Mutter Christi sein sollte; Mutter Christi wurde sie aber, damit unsere Hoffnung auf die ewigen Güter uns wiedergegeben würde. || Von der Liebe zu Gott gehen wir nun zu der Erwägung über, wie die Betrachtung der unbefleckten Empfängnis der Jungfrau uns aufmuntern kann zur Beobachtung des Gesetzes, das Jesus mit Vorzug sein Gebot nannte, nämlich zum Gebot, daß wir den Nächsten lieben, wie er selbst uns geliebt hat. Ein großes Zeichen, so beschreibt der Apostel Johannes das ihm gewordene Gesicht, ein großes Zeichen erschien am Himmel: ein Weib, bekleidet mit der Sonne; der Mond zu ihren Füßen, und auf ihrem Haupte eine Krone von zwölf Sternen (Apoc. XII, 1). Jeder nun weiß, daß dieses Weib niemand anders bedeutet, als Maria, die als unversehrte Jungfrau Christus, unser Haupt, geboren. — Und das Weib, so fährt der Apostel fort, war gegesegneten Leibes, schrie in Wehen und war in Pein, zu gebären (Apoc. XII, 2). Der Apostel sah also die heilige Gottesmutter, obwohl sie bereits beseligt im Himmel war, doch an geheimnisvollen Geburtswehen leiden, was war das doch für eine Geburt? Unsere Geburt ist es, die wir, in der irdischen Verbannung zurückgehalten, zur vollkommenen Liebe Gottes und zur ewigen Glückseligkeit noch geboren werden müssen. Ihre Geburtswehen aber bedeuten die Liebe und den Eifer, mit denen die Jungfrau auf dem Himmelsthron wacht und durch ihre fortwährende Fürbitte zu bewirken sucht, daß die Zahl der Erwählten voll werde.

Daß nun diese Liebe besonders bei Gelegenheit dieser außerordentlichen Feier der unbefleckten Empfängnis der Gottesgebärerin von allen erstrebt werden möge, dahin geht Unser sehnlichstes Verlangen. Wie hart und wütend wird auch in diesem Augenblick Christus bedrängt und seine heilige Religion! Wie viele schweben in augenscheinlicher Gefahr, durch die schleichenden Irrtümer verführt zu werden und vom Glauben abzufallen! Deshalb, wer steht, der sehe zu, daß er nicht falle (1. Kor. X, 12). Möchten doch alle durch Gebet und demütiges Flehen bei Gott einstehen, daß diejenigen, welche von der Wahrheit abgewichen sind, durch die Fürbitte der Gottesmutter zur besseren Sinnesänderung zurückkehren! Wir wissen ja aus der Erfahrung, daß ein Gebet, gestützt auf die Liebe und unterstützt durch die Fürsprache der Jungfrau, nie des Erfolges verlustig geht. Freilich, die Kirche wird ja auch fürderhin und

immer bekämpft werden; denn es muß Meinungsspaltungen geben, damit die, welche bewährt sind, offenbar werden unter euch (I. Kor. XI, 19). Aber auch die Jungfrau wird bei uns sein, selbst in den verzweifeltsten Lagen, sie wird den Kampf verfolgen, den sie von ihrer Empfängnis an begonnen, so daß es jeden Tag von ihr heißen kann: Heute ist der Schlange von ihr der Kopf zertreten worden (Off. Imm. Conc. in II. Vesp. ad Magnif.).

Damit wir nun durch eine reichlichere Gnadenhülfe von oben in den Stand gesetzt werden, um mit den Ehrungen, die wir im Laufe dieses Jahres Maria in reicherem Maße spenden, auch die Nachahmung ihrer Tugenden zu verbinden, und damit auch Wir Unser Vornehmen, alles in Christus wiederherzustellen, um so nachdrücklicher verwirklichen mögen, haben Wir, wie dieses bei Unseren Vorgängern beim Antritte ihres Pontifikates üblich war, beschlossen, einen außerordentlichen Ablaß in Form eines Jubiläums dem ganzen katholischen Erdkreis zu gewähren.

Im Vertrauen also auf die Barmherzigkeit des allmächtigen Gottes und auf die Autorität der heiligen Apostel Petrus und Paulus und kraft der Vollmacht zu binden und zu lösen, die Uns, wenn auch unverdientermaßen, verliehen ist, bewilligen und erteilen Wir allen und jedem Christgläubigen beiderlei Geschlechts einen vollkommenen Ablaß aller Sünden. Diesen Ablaß nun können die Bewohner Unserer Stadt, oder die Besucher derselben gewinnen, wenn sie in der Zeit vom ersten Fastensonntag, d. h. vom 21. Februar an bis zum 2 Juni, dem Feste des heiligsten Fronleichnams Christi, eingeschlossen, dreimal eine der großen Patriarchalbasiliken besuchen und dort eine zeitlang für die Freiheit und Erhöhung der katholischen Kirche und dieses Apostolischen Stuhles, sowie für die Ausrottung der Ketzereien und die Bekehrung der Irrgläubigen, für die Eintracht unter den christlichen Fürsten und den Frieden und die Einigkeit des gläubigen Volkes nach Unserer Meinung fromm zu Gott beten; wenn sie ferner einmal während der besagten Zeit, aber nicht an den Tagen, die in dem Fastenindult nicht ausgenommen sind, bei gleichzeitiger Enthaltung von Fleischspeisen, fasten und nach dem Sündenbekenntnis in der Beichte das heilige Sakrament des Altars empfangen. Diejenigen aber, die außerhalb der ewigen Stadt wo immer leben, können desselben Ablasses teilhaftig werden, wenn sie die Kathedralkirche, so sich dieselbe in ihrem Wohnort befindet, oder die Pfarrkirche, oder bei Abgang einer solchen wenigstens die Hauptkirche, während der obenerwähnten Zeit oder auch mit Unterbrechung der besagten drei Monate, je nachdem die Bischöfe es für die Gläubigen zukömmlich halten und vorschreiben, jedenfalls aber vor dem 8. Dezember

die gemeldete Kirche dreimal besuchen und die anderen vorgeschriebenen guten Werke verrichten. Allen diesen erteilen Wir, um es noch einmal zu sagen, einen vollkommenen Ablaß aller ihrer Sünden, mit der Bewilligung, daß dieser Ablaß, der nur einmal gewonnen werden kann, auch den Seelen fürbittweise zugewendet werden kann, die, mit Gott in Liebe verbunden, bereits aus diesem Leben geschieden sind.

Ebenso erlauben Wir, daß die Reisenden zur See oder zu Land, nachdem sie in ihrem Wohnsitz angelangt sind und die vorgeschriebenen Werke entrichtet haben, ebenfalls desselben Ablasses teilhaft werden.

Den Beichtvätern aber, die zur Zeit von den zuständigen Oberhirten approbiert sind, geben Wir Vollmacht, die vorbemerkten und vorgeschriebenen guten Werke in andere fromme Werke zu verwandeln zugunsten der Ordensleute beiderlei Geschlechts, sowie aller anderen, welche die vorgeschriebenen Werke nicht zu erfüllen im stande sind, und bei den Kindern bezüglich der Kommunion, wenn sie zu derselben noch nicht zugelassen worden.

Überdies erteilen Wir allen und jedem Christgläubigen, sei es im Laien- oder Priesterstand, in der Welt oder im Kloster was immer eines Ordens oder einer klösterlichen Anstalt, auch wenn dieselben sonst namentlich zu bezeichnen wären, die Erlaubnis und Vollmacht, daß sie zum Zweck der Gewinnung dieses Ablasses was immer für einen Priester, sei er Ordensmann oder Weltpriester, wenn er nur zurzeit zum Beichthören approbiert ist, wählen können, der, wenn sie während der anberaumten Zeit und in der Absicht, das Jubiläum zu gewinnen und die vorgeschriebenen Werke zu verrichten, bei ihm sich zur Beichte stellen, sie, aber bloß für dieses Mal und bloß für den Bereich des Gewissens, von den Sünden losspreche. Diese Vollmacht gilt auch für Klosterfrauen, für die Novizinnen und andere Frauen, welche innerhalb des Klosters leben, wenn der Beichtvater zum Hören der Beichten von Klosterfrauen approbiert ist. — Diesen Beichtvätern nun erteilen wir die Gewalt, loszusprechen von der Exkommunikation, der Suspension und von anderen kirchlichen Straferlassen und Zensuren, mögen dieselben vom Recht oder von irgend einer Person, aus was immer für einem Grunde ergangen sein, auch wenn deren Lossprechung den örtlichen Ordinarien und Uns, dem Apostolischen Stuhle, vorbehalten ist, selbst in Fällen, die zum Vorbehalt einer kirchlichen Obrigkeit, selbst des Papstes und des Apostolischen Stuhles „auf besondere Weise“ gehören; Wir bevollmächtigen diese Beichtväter dann, loszusprechen von allen Sünden und Verfehlungen, mögen dieselben auch den Ordinarien und dem Papste vorbehalten sein; jedoch bloß nach Auferlegung einer heilsamen Buße

und mit der Verpflichtung, allen Rechtsansprüchen zu genügen, und wenn es sich um Ketzerei handelt, mit dem Gebot, dieselbe abzuschwören und zu widerrufen; Wir geben ferner den Beichtvätern die Gewalt, jedwede Gelübde, auch die unter einem Schwur abgelegten und dem Apostolischen Stuhl vorbehaltenen (ausgenommen die Gelübde der Keuschheit, des Eintrittes in einen Orden und die Gelübde, die eine Verpflichtung gegen einen dritten, falls dieselbe angenommen ist, enthalten) in andere fromme und heilsame Werke zu verwandeln: endlich geben Wir den Beichtvätern die Vollmacht, Beichtenden, welche kirchliche Weihen erhalten haben oder einem Orden angehören, zu dispensieren von jeglicher geheimen Irregularität, die sie sich bloß durch Mißachtung der Zensuren zugezogen und die sie an der Ausübung der empfangenen Weihen oder an dem Empfange höherer Weihen hindern sollte. — Es ist aber nicht Unsere Absicht, mit gegenwärtigem Sendschreiben zu entheben von irgend einer, sei es öffentlich bekannten oder geheimen Irregularität, welche die Wirkung eines Vergehens, oder irgend eines Mangels, irgend welcher Makel, oder irgend einer Rechtsunfähigkeit und Inhabilität ist. Ebensowenig beabsichtigen Wir irgend einen Abbruch zu tun der Konstitution und deren erklärenden Beisätzen, welche Benedikt XIV. seligen Andenkens erlassen und die mit den Worten beginnt: „Sacramentum poenitentiae"; endlich wollen Wir in keiner Weise, daß dieses Schreiben irgend welchen zu gute kommen könne und dürfe, die von Uns und dem Apostolischen Stuhle, oder von einem Prälaten und kirchlichen Richter namentlich exkommuniziert, suspendiert und mit dem Interdikt belegt wurden, oder sonst als Straferkenntnissen und Zensuren verfallen durch öffentliches Urteil erklärt worden sind, es sei denn, daß sie innerhalb der oben gemeldeten Zeitdauer Genugtuung geleistet, oder mit denen, die es betrifft, sich verglichen und versöhnt haben.

Überdies tun Wir hiermit Unsern Willen und die Bewilligung kund, daß auch während der Zeit des Jubiläums jeder das Privilegium genießt, was immer für Ablässe, selbst vollkommene, die von Uns und von Unsern Vorgängern erteilt worden sind, zu gewinnen.

Wir beschließen nun dieses Unser Schreiben mit dem erneuten Ausdruck der Hoffnung, die fest in Unserm Herzen steht, daß in Wirkung dieses außerordentlichen Jubiläums, das Wir unter dem Schutz der unbefleckten Jungfrau ausgeschrieben haben, recht viele, die sich leider von Jesus Christus getrennt haben, zurückkehren werden und daß in dem christlichen Volke die Liebe zur Tugend und Frömmigkeit einen neuen Aufschwung gewinne. Als Unser Vorgänger Pius vor fünfzig Jahren die unbefleckte Empfängnis der Jungfrau als Glaubenssatz verkündete, da

tat sich, wie Wir bereits bemerkt haben, ein außerordentlicher Gnadensegen, welcher der ganzen Welt zu teil wurde, kund, und mit dem Wachstum der Hoffnung und des Vertrauens auf die jungfräuliche Gottesmutter gewann auch die Religiosität des Volkes allerorts eine erfreuliche Zunahme. Warum sollen auch wir uns nicht auf ähnliches und größeres für die Zukunft Hoffnung machen können? Gewiß sind die Zeiten, in denen wir leben, verhängnisvoll, und auch wir können mit dem Propheten sagen: Es ist keine Wahrheit, kein Erbarmen und keine Erkenntnis Gottes mehr im Lande. Lästerung, Lüge, Mord und Diebstahl nehmen überhand (Os. IV, 1—2). Aber siehe! in dieser Sündflut von Übeln erscheint vor unserm Blick der Regenbogen, die mildherzige Jungfrau, und stellt sich als Friedensstifterin zwischen Gott und die Menschen. Meinen Bogen setze ins Gewölk, und er sei zum Bundeszeichen zwischen mir und zwischen der Erde. (Gen. IX, 13.) Lassen wir den Sturm nur wüten und den Himmel sich in schwarze Nacht begraben, aber nimmer wollen wir den Mut aufgeben. Der Anblick Marias versöhnt Gott, und er wird uns gnädig sein. Der Bogen wird im Gewölke sein, und ich werde ihn schauen und gedenken des ewigen Bundes (Gen. IX, 16). Und es werden fürder nicht sein Wasserfluten, zu vertilgen alles Fleisch (A. a. O. 15). Wenn wir auf Maria vertrauen, wie wir sollen, besonders jetzt, da wir ihre unbefleckte Empfängnis eifriger verehren, werden wir es auch inne werden und erfahren, wie übermächtig Maria ist, die der Schlange den Kopf zertreten.

Zum Unterpfand dieser Himmelsgaben, Ehrwürdige Brüder, erteilen Wir euch und euren Völkern aus ganzem Herzen den Apostolischen Segen.

Gegeben zu Rom beim h. Petrus am 2. Februar 1904, im ersten Jahre Unseres Pontifikates.

Papst Pius X.

Bündnisse, Verträge, Protokolle usw.

Nr. 13203. **DEUTSCHES REICH und VENEZUELA.** — Abkommen über die schiedsrichterliche Entscheidung gewisser Fragen wegen Bezahlung der deutschen Reklamationen.

Washington, 7. Mai 1903.

(Übersetzung.)

Nachdem zwischen Deutschland, Großbritannien, Italien, den Vereinigten Staaten von Amerika, Frankreich, Spanien, Belgien, den Niederlanden, Schweden und Norwegen und Mexiko einerseits und Venezuela andererseits Protokolle unterzeichnet worden sind, die gewisse Bedingungen für die Regelung von Reklamationen gegen die venezolanische Regierung enthalten; || nachdem ferner gewisse weitere Fragen, die aus der von den Regierungen Deutschlands, Großbritanniens und Italiens unternommenen Aktion in Ansehung der Regelung ihrer Reklamationen entstanden sind, für eine Erledigung auf dem gewöhnlichen diplomatischen Wege sich als ungeeignet erwiesen haben; || nachdem endlich die beteiligten Mächte sich entschlossen haben, diese Fragen durch Schiedsspruch gemäß den Bestimmungen der am 29. Juli 1899 im Haag unterzeichneten Konvention zur friedlichen Erledigung von internationalen Streitfällen entscheiden zu lassen, || haben Deutschland und Venezuela in der Absicht, diesen Entschluß auszuführen, ihre Vertreter, nämlich: || den Kaiserlich deutschen Gesandten Herrn Freiherrn Speck von Sternburg als Vertreter der Kaiserlich deutschen Regierung und || Herrn Herbert W. Bowen als Bevollmächtigten der venezolanischen Regierung || ermächtigt, das folgende Abkommen abzuschließen:

Artikel 1.

Die Frage, ob Deutschland, Großbritannien und Italien auf eine bevorrechtigte oder gesonderte Behandlung bei der Bezahlung ihrer Reklamationen gegen Venezuela Anspruch haben, soll zur endgültigen Entscheidung dem Schiedsgericht im Haag unterbreitet werden. Da

Venezuela eingewilligt hat, 30 Prozent der Zolleinkünfte von La Guayra und Puerto Cabello für die Bezahlung der Reklamationen aller Nationen gegen Venezuela zur Verfügung zu stellen, so soll das Schiedsgericht im Haag entscheiden, wie die bezeichneten Einkünfte zwischen den Blokademächten einerseits und den übrigen Gläubigermächten andererseits zu verteilen sind, und seine Entscheidung soll endgültig sein. || Wird den Blokademächten eine bevorrechtigte oder gesonderte Behandlung nicht gewährt, so soll das Schiedsgericht entscheiden, wie die bezeichneten Einkünfte unter alle Gläubigermächte zu verteilen sind; die Vertragsteile sind darüber einig, daß das Schiedsgericht in diesem Falle neben der Bezahlung der Reklamationen aus den 30 Prozent alle einer Gläubigermacht zugute kommenden Vorrechte oder Pfandrechte an Einkünften in Betracht ziehen und demgemäß die Frage der Verteilung so entscheiden soll, daß keine Macht eine bevorrechtigte Behandlung erlangt; seine Entscheidung soll endgültig sein.

Artikel 2.

Die Tatsachen, von denen die Entscheidung über die im Artikel 1 bezeichneten Fragen abhängt, sollen in der durch das Schiedsgericht zu bestimmenden Weise festgestellt werden.

Artikel 3.

Der Kaiser von Rußland soll gebeten werden, aus den Mitgliedern des ständigen Schiedshofs im Haag drei Schiedsrichter zu ernennen und zu bezeichnen, um das Schiedsgericht zu bilden, welches die ihm auf Grund dieses Abkommens unterbreiteten Fragen entscheiden und regeln soll. Keiner der so ernannten Schiedsrichter darf Untertan oder Bürger einer der Signatar- oder Gläubigermächte sein. Das Schiedsgericht soll am 1. September 1903 zusammentreten und seine Entscheidung von da an binnen sechs Monaten abgeben.

Artikel 4.

Die Verhandlungen sollen in englischer Sprache geführt werden; doch können mit Genehmigung des Schiedsgerichts Ausführungen auch in einer anderen Sprache gemacht werden. Das Verfahren wird, soweit nicht in diesem Abkommen ein anderes bestimmt ist, durch die Haager Konvention vom 29. Juli 1899 geregelt.

Artikel 5.

Das Schiedsgericht soll unter Berücksichtigung der allgemeinen Bestimmung im Artikel 57 der internationalen Konvention vom 29. Juli 1899

auch darüber entscheiden, wie, wann und von wem die Kosten dieses Schiedsverfahrens zu tragen sind.

Artikel 6.

Jede Nation, die Reklamationen gegen Venezuela zu erheben hat, kann sich dem durch dieses Abkommen vorgesehenen Schiedsverfahren als Partei anschließen.

Freiherr Speck von Sternburg.
Herbert W. Bowen.

Nr. 13204. **JAPAN, DEUTSCHLAND, GROSSBRITANNIEN, FRANKREICH.** — Vertrag zur Einsetzung eines Schiedsgerichts über Besteuerung der Fremden in Japan.

(*Translation.*)

Department of Foreign Affairs, Tokio, August 28th, 1902.

In view of the conclusion this day, of a Protocol, by which the Governments of Japan, Germany, France and Great Britain have agreed to refer to impartial arbitration the question whether or not the provisions of the Treaties and other engagements mentioned in the said Protocol, exempt only land held under leases in perpetuity granted by or on behalf of the Japanese Government, or land and buildings of whatever description, constructed or which may hereafter be constructed on such land, from any imposts, taxes, charges, contributions or conditions whatsoever other than those expressly stipulated in the leases in question, the Imperial Government have deemed it proper that the forcible collection of the taxes and rates in respect of such buildings, should be suspended during the arbitral proceedings. The undersigned, His Imperial Japanese Majesty's Minister of State for Foreign Affairs, has, therefore, the honour to acquaint His Excellency Sir Claude Maxwell MacDonald, His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary that the Imperial Government will suspend the forcible collection of the taxes and rates above mentioned until the arbitral decision is pronounced or the arbitral proceedings are otherwise terminated; it being understood that such suspension shall not prevent the Japanese Authorities from collecting the taxes and rates in question so far as they can do so without recourse to distraint; and it being further understood that neither such suspension, nor the consequences thereof, nor the voluntary payment of the said taxes and rates, is to be invoked against, or to operate in any way to the disadvantage or prejudice of any of the above-mentioned Powers in con-

nection with said arbitration. || The undersigned avails himself of this occasion to renew to His Excellency Sir Claude Maxwell MacDonald the assurance of his highest consideration.

(Signed) Baron Komura Jutaro.

His Excellency
Sir Claude Maxwell MacDonald,
His Britannic Majesty's Envoy Extraordinary
and Minister Plenipotentiary.

N. B. Similar Notes have been addressed to the German Minister and to the French Chargé d'Affaires.

Protokoll.

In der Erwägung, || daß zwischen den Regierungen von Deutschland Frankreich und Großbritannien einerseits und der Japanischen Regierung andrerseits ein Streitfall über den wahren Sinn und die Bedeutung der nachstehend aufgeführten Bestimmungen der zwischen ihnen abgeschlossenen Verträge und anderen Vereinbarungen entstanden ist, nämlich: || Artikel XVIII Absatz 4 des Handels- und Schiffahrtsvertrages zwischen dem Deutschen Reich und Japan vom 4. April 1896: || „Sobald diese Einverleibung erfolgt (das heißt, sobald die einzelnen Fremdenniederlassungen in Japan den betreffenden Japanischen Gemeinden einverleibt sein werden), sollen die bestehenden, zeitlich unbegrenzten Überlassungsverträge, unter welchen jetzt in den gedachten Niederlassungen Grundstücke besessen werden, bestätigt und hinsichtlich dieser Grundstücke sollen keine Bedingungen irgend einer anderen Art auferlegt werden, als sie in den bestehenden Überlassungsverträgen enthalten sind"; || ferner Ziffer 3 der Note des Kaiserlich Deutschen Staatssekretärs des Auswärtigen Amts vom selben Tage an den Kaiserlich Japanischen Gesandten in Berlin: || „3. daß, da das Eigentum an den im Artikel XVIII des Vertrages erwähnten Niederlassungsgrundstücken dem Japanischen Staate verbleibt, die Besitzer oder deren Rechtsnachfolger für ihre Grundstücke außer dem kontraktmäßigen Grundzins Abgaben oder Steuern irgend welcher Art nicht zu entrichten haben werden"; || und im Absatz 1 der Erwiderung des Japanischen Gesandten vom selben Tage auf die vorhergehende Note: || „daß die darin unter Nummer 1 bis 4 zum Ausdruck gebrachten Voraussetzungen, welche den Erwerb dinglicher Rechte an Grundstücken, die Errichtung von Warenhäusern, die Steuerfreiheit der Grundstücke in den Fremdenniederlassungen und die Erhaltung wohlerworbener Rechte nach Ablauf des Vertrages zum Gegenstande haben, in allen Punkten

zutreffend sind"; || Artikel XXI Absatz 4 des revidierten Vertrages zwischen Frankreich und Japan vom 4. August 1896: || „Lorsque les changements ci-dessus indiqués auront été effectués, (das heißt, sobald die einzelnen Fremdenniederlassungen in Japan den betreffenden Japanischen Gemeinden einverleibt sein und Bestandteile der Japanischen Gemeinden bilden werden; und sobald die zuständigen Japanischen Behörden alle munizipalen Verbindlichkeiten und Verpflichtungen übernommen haben und die munizipalen Gelder und Vermögensgegenstände, welche diesen Niederlassungen gehören, den genannten Japanischen Behörden übergeben sein werden) les baux à perpétuité en vertu desquels les étrangers possèdent actuellement des propriétés dans les quartiers seront confirmés, et les propriétés de cette nature ne donneront lieu à aucuns impôts, taxes, charges, contributions ou conditions quelconques autres que ceux expressément stipulés dans les baux en question"; und || Artikel XVIII Absatz 4 des revidierten Vertrages vom 16. Juli 1894 zwischen Großbritannien und Japan: || „When such incorporation takes place, (das heißt, sobald die einzelnen Fremdenniederlassungen in Japan den betreffenden Japanischen Gemeinden einverleibt sein werden) existing leases in perpetuity under which property is now held in the said Settlements shall be confirmed, and no conditions whatsoever other than those contained in such existing leases shall be imposed in respect of such property"; || in der Erwägung, || daß der Streitfall auf gewöhnlichem diplomatischen Wege nicht erledigt werden kann; und in der Erwägung, || daß die beteiligten Mächte, welche Signatarmächte des Haager Abkommens zur friedlichen Erledigung internationaler Streitfälle sind, beschlossen haben, den Streitfall dadurch zu erledigen, daß sie denselben in Gemäßheit der Bestimmungen des vorerwähnten Abkommens einem unparteiischen Schiedsgericht unterbreiten; || haben die genannten Regierungen zur Ausführung dieses Entschlusses die nachstehenden Vertreter, nämlich: || die Regierung von Deutschland: || den Außerordentlichen Gesandten und Bevollmächtigten Minister Seiner Majestät des Deutschen Kaisers, Königs von Preußen, Herrn Grafen von Arco Valley; || die Regierung von Frankreich: || den Bevollmächtigten Minister, Geschäftsträger von Frankreich, Herrn G. Dubail; || die Regierung von Großbritannien: || den Außerordentlichen Gesandten und Bevollmächtigten Minister Seiner Majestät des Königs von Großbritannien, Sir Claude Maxwell MacDonald, G. C. M. G., K. C. B.; || die Regierung von Japan: || den Minister der Auswärtigen Angelegenheiten Seiner Majestät des Kaisers von Japan, || Herrn Baron Komura Jutaro; || ermächtigt, das nachstehende Protokoll abzuschließen:

I. Die an dem Streitfall beteiligten Regierungen kommen dahin

überein, daß das Schiedsgericht, welchem der Streitfall zur endgültigen Entscheidung vorzulegen ist, aus drei Mitgliedern bestehen soll, die dem ständigen Schiedshof im Haag angehören und in nachstehender Weise zu bestimmen sind: || Jede Partei hat so bald wie möglich, jedenfalls nicht später als zwei Monate nach dem Datum dieses Protokolls, einen Schiedsrichter zu ernennen, und die beiden so ernannten Schiedsrichter haben gemeinschaftlich einen Obmann zu wählen. Wenn die beiden Schiedsrichter zwei Monate nach ihrer Ernennung einen Obmann noch nicht gewählt haben, so soll Seine Majestät der König von Schweden und Norwegen gebeten werden, einen Obmann zu ernennen.

II. Die Streitfrage, über welche die in diesem Schiedsverfahren streitenden Parteien eine endgültige Entscheidung des Schiedsgerichts erbitten, ist folgende: || Befreien die vorerwähnten Bestimmungen der Verträge und die übrigen Vereinbarungen lediglich den Grund und Boden, welcher unter den zeitlich unbegrenzten, von der Japanischen Regierung oder für dieselbe abgeschlossenen Überlassungsverträgen besessen wird, oder befreien sie Grund und Boden *und* Gebäude jeglicher Art, welche auf diesem Grund und Boden errichtet sind oder in der Folge errichtet werden sollten, von allen Abgaben, Steuern, Lasten, Kontributionen oder Bedingungen jeder Art, welche nicht ausdrücklich in den betreffenden Überlassungsverträgen festgesetzt sind?

III. Innerhalb von acht Monaten, vom Datum dieses Protokolls an gerechnet, soll jede Partei den einzelnen Mitgliedern des Schiedsgerichts und der Gegenpartei in je einem Exemplar eine vollständige, geschriebene oder gedruckte Darstellung des Streitfalls, ihrer Gründe und des Beweismaterials überreichen, auf welche sie sich in dem gegenwärtigen Schiedsverfahren stützt. Innerhalb von weiteren sechs Monaten haben beide Parteien in gleicher Weise in geschriebener oder gedruckter Form ihre Gegenvorstellungen nebst deren schließlicher Begründung sowie das ergänzende Beweismaterial einzureichen; diese Gegenvorstellungen, deren Begründung und das ergänzende Beweismaterial sollen indessen lediglich eine Erwiderung auf die von der Gegenpartei eingereichte Darstellung des Streitfalls, auf dessen Begründung und auf das darauf bezügliche Beweismaterial enthalten.

IV. Jeder Partei steht das Recht zu, dem Schiedsgericht als Beweismaterial alle diejenigen Urkunden, Schriftstücke, amtlichen Korrespondenzen und anderen offiziellen oder öffentlichen Erklärungen und Akten über den Streitgegenstand zu unterbreiten, deren Vorlegung sie als notwendig erachtet. Wenn aber eine Partei in ihrer Darstellung des Streitfalls, ihrer Gegenvorstellung oder Begründung ein in ihrem aus-

schließlichen Besitz befindliches Schriftstück erwähnt oder auf ein solches Bezug nimmt, ohne eine Abschrift beizufügen, so ist sie verpflichtet, der Gegenpartei auf deren Verlangen innerhalb von dreißig Tagen nach Stellung des bezüglichen Antrags eine Abschrift des betreffenden Schriftstücks auszuhändigen.

V. Jede Partei ist berechtigt, vorbehaltlich des Rechts einer Erwiderung seitens der Gegenpartei, dem Schiedsgericht innerhalb einer von ihm zu bestimmenden Frist zur geeigneten Verwertung eine Aufzeichnung derjenigen Einwendungeu vorzulegen, die sie bezüglich der von der anderen Partei eingereichten Gegenvorstellung, deren Begründung und des ergänzenden Beweismaterials erhebt, wenn sie der Ansicht ist, daß die betreffenden Schriftstücke oder einige derselben unerheblich oder unrichtig sind, oder sich nicht genau in den Grenzen einer Erwiderung auf die Darstellung des Streitfalls, deren Begründung oder auf das Beweismaterial halten.

VI. Abgesehen von den unter Nummer III und V dieses Protokolls aufgeführten, sollen keine Schriftstücke oder Mitteilungen in schriftlicher oder mündlicher Form in dem Schiedsverfahren zugelassen oder berücksichtigt werden, es sei denn, daß das Schiedsgericht von einer Partei neue oder ergänzende, in schriftlicher Form abzugebende Erläuterungen oder Aufschlüsse verlangt. Sind diese Erläuterungen oder Aufschlüsse gegeben, so soll die Gegenpartei berechtigt sein, sich hierauf innerhalb einer von dem Schiedsgericht zu bestimmenden Frist schriftlich zu äußern.

VII. Das Gericht soll an einem später von den Parteien zu bezeichnenden Ort so bald wie tunlich zusammentreten, aber nicht eher als zwei Monate und nicht später als drei Monate nach Einreichung der Gegenvorstellung gemäß Nummer III dieses Protokolls; es soll den Streitfall unparteiisch und sorgfältig prüfen und entscheiden. Die Entscheidung des Gerichtes soll, wenn möglich, innerhalb eines Monats nach dem Zeitpunkt verkündet werden, an dem der Präsident die Verhandlung für geschlossen erklärt hat.

VIII. In dem Schiedsverfahren ist die Japanische Regierung als die eine Partei anzusehen, während die Regierungen von Deutschland, Frankreich und Großbritannien zusammen als die andere Partei gelten.

IX. Sofern in diesem Protokoll nichts anderes vorgesehen ist, sollen in dem gegenwärtigen Schiedsverfahren die Vorschriften des Haager Abkommens zur friedlichen Erledigung internationaler Streitfälle zur Anwendung kommen.

So geschehen in Tokio am 28. August 1902 (28. Tag des 8. Monats des 35. Jahres Meiji).

gez. Graf von Arco Valley. gez. Jutaro Komura.

Nr. 13205. **BRITISCH-SÜDAFRIKA.** — Handelsabkommen zwischen den verschiedenen britischen Besitzungen.
Bloemfontein, 23. März 1903.

Draft Customs Union Convention.

His Excellency the Governor of the Colony of the Cape of Good Hope, His Excellency the Governor of the Colony of Natal, His Excellency the Governor of the Orange River Colony and the Transvaal, and His Honour the Administrator of Southern Rhodesia, mutually on behalf of their respective Governments, admitting that each Colony and Territory is entitled to the Customs Duties collected on goods imported for consumption therein through any of the said Colonies or Territory and that it is desirable that there should be a general Customs Union between all the Colonies and Territories of South Africa have agreed on behalf of their respective Governments upon the following Articles.

Article I.

The Customs Union Covention between the Cape Colony, the Republic of the Orange Free State and the Colony of Natal entered into in the year 1898 shall be superseded by this present Convention; provided however: — || (*a.*) That the supersession of the said Convention shall not affect the validity of the Schedules thereto whereby Basutoland and the Bechuanaland Protectorate were admitted to the Customs Union, which Schedules are for reference and certainty set forth as Schedules A and B hereto and with the exception of the fourth article of each Schedule, which is obsolete, are to be regarded as embodied herein, this Convention and its corresponding Articles being deemed to be in the said Schedules referred to in place of the superseded Convention and its Articles of similar import, || (*b.*) That whenever in either of the said Schedules mutual agreement or joint assent is required, the agreement or assent of the Governments of the Cape Colony, Natal, the Orange River Colony, the Transvaal, and Southern Rhodesia shall be deemed to be necessary, || (*c.*) That the Convention of 1898 entered into as aforesaid, together with the said Schedules thereto, shall, as between all the parties thereto, continue to be of binding force and effect, until a date to be fixed by agreement among the parties to this present Convention after the same shall have been signed by the parties thereto, and shall have been assented to by His Excellency the High Commissioner for and on behalf of Basutoland and the Bechuanaland Protectorate aforesaid and after the same shall have been ratified and approved of by the Legisla-

ture of each of the said Colonies and the Territory of Southern Rhodesia; and || (*d.*) That all the accounts or other matters outstanding between any parties to the said Convention, shall, notwithstanding its supersession by this present Convention, be settled and determined under the aforesaid Convention, together with the Schedules thereto.

Article II.

The following and none other shall, subject to the provisions of any subsequent Article of this Convention, be the Customs Duties upon goods imported into any place within the Union, and the Government of each Colony or Territory within the Union shall levy and collect within its jurisdiction the said duties upon all goods so imported from outside the limits of the Union.

Customs Union Tariff.

Class I. — Special Rates.

	£	s.	d.
1. Ale, beer and cider: all kinds of strength exceeding 3 per cent. of proof spirit, per Imperial gallon . . . . (and in addition ten per cent. *ad valorem*). Note. — *Vide* Article XVII. of Convention.	0	1	6
2. Acetic acid, per Imperial gallon	0	3	0
3. Animals, viz.: —			
(*a*) Cattle for slaughter, each	1	10	0
(*b*) Sheep for slaughter, each . . . . . (Note. — *Vide* Article XIII. of Convention.)	0	5	0
4. Beads, known as „Kaffir beads," per lb.	0	0	6
5. Blasting compounds, including all kinds of explosives suitable and intended for blasting, and not suitable for use in firearms; and collodion cotton not intended for manufacturing purposes, per lb.	0	0	1½
6. Butter, butterine, margarine, ghee and other substitutes for butter, per lb.	0	0	2
7. Chicory and substitutes for coffee or chicory, per lb. .	0	0	2
8. Coffee: —			
(*a*) Raw, per lb.	0	0	0¾
(*b*) Roasted, ground or mixed, per lb.	0	0	2
9. Cocoa and chocolate unsweetened, per lb.	0	0	1
10. Cocoa and milk, chocolate and milk, and coffee and milk, per lb.	0	0	1

	£	s.	d.
11. Condensed, desiccated or preserved milk or cream, per lb.	0	0	0½
12. Coals, per ton of 2000 lbs.	0	3	0
13. Coke and patent fuel, per ton of 2000 lbs.	0	2	0
14. Confectionery, including sweetened cocoa or chocolate, honey, jams, jellies, preserves, sweetmeats, candied or preserved ginger or chowchow; and all other kinds compounded, made or preserved with sugar, but not including purely medicinal preparations properly classed as apothecaryware, per lb.	0	0	2
15. Corn and grain, viz.: — Barley, maize, millet, oats, rye, wheat, beans and peas:			
(*a*) In the grain, or (*b*) crushed, flaked, ground, hulled, malted, pearled, split or otherwise prepared, except oats not in the grain and bran, per 100 lbs.	0	1	0
(*c*) Flour, wheaten, or wheaten meal, including pollard, per 100 lbs.	0	2	0
Note.— *Vide* Free List and Article XV. of Convention.			
16. Dates, per lb.	0	0	0½
17. Fish: — Cured, dried, pickled, preserved, pressed or smoked, not being of South African taking, per lb.	0	0	1
18. Fodder, viz.: — Chaff, hay, lucerne, oat-hay and other fodder, not otherwise described, but not including bran, per 100 lbs.	0	1	0
19. Fruits: — Preserved, of all kinds, bottled, tinned or otherwise preserved, including pulp and candied peel, per lb.	0	0	2
20. Fruits: — Dried of all kinds, including almonds and nuts, per lb.	0	0	2
21. Gunpowder and other explosives suitable for use in firearms, per lb.	0	0	6
(and in addition ten per cent. *ad valorem*)			
22. Guns and gunbarrels, firearms:			
(*a*) Single, per barrel	1	0	0
(*b*) Double and other, per barrel	0	15	0
(and in either case in addition ten per cent. *ad valorem*)			
23. Meats, including lard, fats, soups, and other similar substances used as food, but not including extracts and essences or tallow, per lb.	0	0	1
(*Vide* Article XIII. of Convention.)			

	£	s.	d.
24. Matches: —			
(*a*) Wooden: In boxes or packages of not more than 100 matches, per gross of boxes or packages	0	2	0
In boxes containing more than 100, but not more than 200 matches, per gross of boxes or packages	0	4	0
And for every 100 additional matches, in boxes or packages, per gross of 100 matches	0	2	0
(*b*) Fusees, vestas or wax matches, or other patent lights used as such: in boxes or packages containing not more than 50, per gross of boxes or packages	0	2	0
In boxes or packages of more than 50 but not more than 100, per gross of boxes or packages	0	4	0
And for every 50 additional in boxes or packages, per gross of 50 matches	0	2	0
25. Onions, not preserved, per lb.	0	0	0½
26. Pickles, Sauces, Chutneys, Chillies and other condiments, per lb.	0	0	2
27. Pistols and revolvers, each	0	5	0
(And in addition ten per cent. *ad valorem*.)			
28. Soap, not including toilet soaps and soap powders and extracts, per lb.	0	0	0½
Note. — *Vide* Article XVIII. of Convention.			
29. Spices and turmeric, per lb.	0	0	2
30. Spirits: —			
(*a*) Perfumed, per Imperial gallon	1	0	0
(*b*) Liqueurs and cordials exceeding 3 per cent. of proof spirit, per Imperial gallon	0	15	0
(*c*) Other sorts, exceeding three per cent. but not exceeding the strength of proof by Sykes' Hydrometer and so on in proportion for any greater strength, per Imperial gallon	0	15	0
(And in addition ten per cent, *ad valorem* on all the above classes of spirits.)			
Note. — *Vide* Article XVII. of Convention.			
31. Sugar: —			
(*a*) Not refined, olden syrup, molasses, saccharum and treacle, per 100 lbs.	0	3	6

	£	s.	d.
(*b*) Refined, per 100 lbs.	0	5	0
Note. — *Vide* Article V. of Convention.			
32. Tea, per lb.	0	0	4
33. Tobacco: —			
(*a*) Cigars and cigarillos, per lb.	0	6	0
(And in addition ten per cent. *ad valorem*.)			
(*b*) Goorak or Goorakeo, and Hookah mixture, and all imitations or substitutes, per lb.	0	6	0
(*c*) Snuff, per lb.	0	4	0
(*d*) Cigarettes, per lb.	0	4	0
(And in addition ten per cent. *ad valorem*.)			
(*e*) Manufactured and cut, per lb.	0	3	0
(*f*) Manufactured but uncut, per lb.	0	3	0
(*g*) Not manufactured but stemmed, per lb.	0	2	6
(*h*) Not manufactured and unstemmed, per lb.	0	2	0
34. Vinegar: —			
(*a*) Of standard strength, fit for immediate use as such (*i.e.*, requiring no more than 40 grains of bicarbonate of potash to neutralise one ounce Troy) —			
(1) In bottles or other vessels of the capacity of not more than one Imperial quart, per Imperial gallon	0	1	0
(2) In larger vessels or in bulk, per Imperial gallon	0	0	6
(*b*) Concentrated extract or essence, of greater strength than above, per Imperial gallon	0	3	0
35. Wine: —			
(*a*) Still wines not exceeding 20 per cent. of proof spirit, per Imperial gallon	0	4	0
(*b*) Still wines exceeding 20 per cent. but not exceeding 50 per cent. of proof spirit, per Imperial gallon	0	8	0
(*c*) Sparkling wines, per Imperial gallon	0	12	6
(And in addition ten per cent. *ad valorem* on all the above classes of wine.)			
Note. Wines containing less than three per cent. of proof spirit are not included in the above and wines containing more than 50 per cent. of proof spirit are classed as spirits.			

Class II.

Mixed *ad valorem* Rates.

	£	s.	d.
36. Bicycles, tricycles and velocipedes and parts thereof, per £ 100	12	10	0
37. Blankets and sheets, or rugs, cotton or woollen, or manufactures of cotton and wool, commonly used as cotton or woollen blankets or rugs, the single article, in pairs or in the piece; and coats, jackets, or other apparel made of blanketing or baize, per £ 100	25	0	0
38. Bon-bons, surprise packets and crackers, and other similar fancy confectionery, per £ 100	25	0	0
39. Cards, playing, per £ 100	25	0	0
40. Carriages, carts, coaches, wagons and all other wheeled vehicles, not elsewhere described, intended for the conveyance of persons or goods, including finished parts thereof, not being metal parts not usually made in the Union, but required in the manufacture of wheeled vehicles therein; but not including bath chairs, perambulators, toy carts, store trucks or barrows, per £ 100	12	10	0
41. Extracts and essences of all kinds for flavouring or perfumery, including saccharine, per £ 100	25	0	0
42. Fireworks of all descriptions, per £ 100	25	0	0
43. Medicines, patent or proprietary, per £ 100	25	0	0
44. Motor vehicles, including their parts, and motor cycles, but not including traction engines and power lorries, per £ 100	5	0	0
45. Oils, essential or perfumed, per £ 100	25	0	0
46. Perfumery, cosmetics, dyes, powders and soap, and other preparations for toilet use, and soap powders and extracts, per £ 100	25	0	0
47. Shawls, per £ 100	25	0	0

Class III.

Ad valorem $2\frac{1}{2}$ per cent.

48. Acids: nitric and sulphuric. || 49. Asbestos packing and boiler composition. || 50. Assay apparatus. || 51. Bands and belting of all kinds for driving machinery, boiler tubes, bolting cloth and mill silk. || 52. Battery cloth and baize, gauze, matting, sieving and screening for use in connection with machinery and apparatus. || 53. Bolts, nuts and rivets. ||

54. Bottles and jars of common glass or earthenware, and bottles ordinarily used for aerated waters: empty. || 55. Chain for hauling. || 56. Chimneys: metal (smokestacks). || 57. Corks and bungs, and corkwood unmanufactured. || 58. Cranes, elevators, and shears. || 59. Crucibles, cupels, cupelling furnaces, ingot moulds, retorts and furnaces for roasting minerals. || 60. Cyanide of potassium. || 61. Fire escapes and fire hose and hose reels. || 62. Hose: steam, suction and armoured (not including garden), for use in connection with machinery and apparatus. || 63. Machinery, not elsewhere described, to be driven by cattle, electric, gas, heat, hydraulic, pneumatic, steam, water or wind power, including spare parts; and apparatus and appliances used in connection with the generating and storing of electric power or gas; electric cable or wire and the posts for carrying the same; lamp posts and their fittings. || 64. Mining buckets, skips, trucks and tubs, wheeled or otherwise, for hauling on rails or wires. || 65. Packing and lagging for engines, machinery and piping. || 66. Pipes, piping and tubes of all kinds for gas, steam, drainage, sewerage, irrigation, water supply or pumping, not including downpiping and guttering or cocks and taps. || 67. Railway, construction or equipment requisites as follows: — rails, sleepers, fastenings for rails or sleepers, girders, iron bridge work, culvert tops, locomotives, tenders, ballast trucks, goods wagons, carriages, trollies, engine water-tanks, turn-tables, permanent or fixed signals and weigh-bridges. || 68. Rubber for use in connection with machinery and apparatus. || 69. Tanks and vats suitable and intended for mining purposes. || 70. Telegraphs and telephones: — materials and instruments for use in construction and working of telegraph and telephone lines. || 71. Traction engines and power lorries. || 72. Tramway construction and equipment requisites as follows: — rails, sleepers, fastenings for rails or sleepers, iron gates, girders, iron bridge work, culvert tops, cars, trollies, water tanks and turn-tables. || 73. Wire and wire netting for fencing; droppers, gates, hurdles, posts, standards, strainers, staples, stiles, winders and other materials or fastenings of metal ordinarily used for agriculture or railway fencing; and baling wire. || 74. Wire rope.

Note. — *Vide* Articles III. (*b*) and XX. of Convention.

Class IV.

Free.

75. Agricultural implements and machinery, and all apparatus and plant usually and principally employed in farming operations; binding twine and harvest yarn. || 76. All raw produce of South Africa, and animals bred in South Africa imported into the Union overland. || 77. All

animals bred and articles grown, produced or manufactured within the Union except: || (*a*) Flour, wheaten, or wheaten meal, including pollard, manufactured from other than South African wheat. || (*b*) Spirits, beer, or blasting compound, distilled or manufactured in the Union, should a duty be imposed under Article XVII. of the Convention. || 78. Ambulance materials imported by recognised associations, corps or hospitals lawfully established for instruction or drill in first aid to the wounded. || 79. Anchors and chain cables for the use of ships, tugs or lighters. || 80. Animals living, except cattle and sheep for slaughter.

(*Vide* Article of Convention.)

81. Arms, ammunition, appointments and uniforms for the Regular Military, Naval or Volunteer Imperial or Colonial Forces of His Majesty. || 82. Atlases, charts, globes and maps. || 83. Bags for flour, grain, manure, produce, sugar, wool, coal and minerals not including paper bags; and bagging and sacking in the piece. || 84. Band instruments and stands, the *bonâ fide* property of any Government belonging to the Union or of a Regular Military or Volunteer Corps, and not the property of individuals. || 85. Bones, feathers, ivory, hair, hoofs, horns, shells, skins, teeth, wool and other parts of animals, birds, fishes or reptiles, not being manufactured, polished, or further prepared than dried and cleaned, but in their raw and unmanufactured state. || 86. Book-binders' requisites, consisting of boards, cloth, leather, marble paper, skin, thread, tape, vellum, webbing and wire. || 87. Books and music printed, including newspapers and periodicals not being foreign unauthorised prints of any British or South African copyright work. || 88. Borax, bromine, litharge, manganese, di-oxide and quicksilver. || 89. Bottles and jars of common glass or earthenware imported full of any article liable to a rated duty. || 90. Boxes, empty, cardboard and wooden, put together or in pieces or shooks for packing; and staves. || 91. Brass and copper, and composition metal: in bars, ingots, plates and sheets: plain, including perforated, but otherwise unmanufactured. || 92. Bullion, coin, specie, bank notes and other paper currency. || 93. Carriages, carts, wagons and other wheeled vehicles the manufacture of South Africa, imported into the Union overland. || 94. Church decorations, altars, bells, fonts, lecterns, pulpits, organs, plate or vestments, and illuminated windows, imported by or for presentation to any religious body. || 95. Coir, candlewick, cotton, flax, fibre, flock, hemp and jute: raw, waste or unmanufactured. || 96. Collodion, cotton, glycerine and nitrates for manufacturing purposes. || 97. Cups, medals, and other trophies imported for presentation, or presented as prizes at examinations, exhibitions, shows, or other public competitions, for excel-

lence in art, bravery, good conduct, humanity, industry, invention, manufactures, learning, science, skill, or sport, or for honourable or meritorious public services; provided that such articles shall on importation or delivery free from the Customs bear engraved or otherwise indelibly marked on them the name of the presenter or presentee and the occasion or purpose for which presented. || 98. Consular uniforms and appointments and printed official consular stationery. || 99. Cork dust, paper shavings, sawdust, husks and other waste substances intended and suitable for use only as packing material. || 100. Diagrams, designs, drawings, models and plans. || 101. Diamonds and other gems or precious stones in their rough state. || 102. Dye-nuts, gambier, myrobalans, sumach, valonia and other dye stuffs: for leather. || 103. Engravings, lithographs and photographs, and enlargements or reproductions of the same. || 104. Fire clay, terra alba and fire bricks. || 105. Fish, fresh and fish ova; also dried, cured or salted fish and raw fish oil of South African taking. || 106. Fruit: fresh or green, including cocoa-nuts. || 107. Fruit and other produce; — driers or evaporators of. || 108. Glue. || 109. Guano and other substances, animal, mineral or vegetable, artificial or natural, suitable for use as fertilizers or manures. || 110. Hair cloth and springs for furniture. || 111. Ice. || 112. Iron and steel: angle, bar, channel, hoop, rod, plate, sheet or T; plain, including perforated and galvanised; rough and unmanufactured, not including corrugated sheets. || 113. Launches, tugs and lighters: provided that when condemned or landed to be broken up, duty shall be paid at the Customs on the hull and all fittings according to the tariff that may then be in force. || 114. Lead: bar, pipe, sheet, foil and acetate of. || 115. Leather: patent, enamelled, roan and morocco, and pigskin in the piece and valve hide. || 116. Lifeboats, belts and buoys, and other life-saving apparatus imported by the recognised society. || 117. Metal of all sorts in bars, blocks, ingots, and pigs for founding, not elsewhere described. || 118. Paintings, pictures, picture books and etchings. || 119. Paper ordinarily used for printing books, pamphlets, newspapers and posters, or for lithographic purposes. || 120. Potash and soda, carbonate, bi-carbonate, caustic, crystals and silicate. || 121. Printing and lithographic inks. || 122. Printing, lithographing, paper-cutting, folding, numbering and perforating machines or presses, blocks, formes, fontes, plates, rollers, stones and type, and other apparatus suitable only for use in the boock-binding or printing industries. || 123. Public stores, imported or taken out of bond by, and *bonâ-fide* for the sole and exclusive use of, the Government of His Britannic Majesty, and of any Government belonging to the Union, provided that a certificate be delivered to the Customs Authorities given

under the hand of an Officer approved of by the Principal Officer of Customs, setting forth that any duty levied on such public stores would be borne directly by the Government: and provided further that no portions of such stores used or unused shall be sold or otherwise disposed of so as to come into the possession of or into consumption by any persons not legally entitled to import the same free of duty, without the consent of the Principal Officer of Customs and the payment of the duties to him by the Officer so selling or disposing of such public stores. || 124. Rattans, cane and bamboo: unmanufactured. || 125. Resin and carbonate of ammonia. || 126. Saddle-trees. || 127. School furniture and requisites: being all articles certified by the Superintendent-General of Education, or any official appointed for that purpose in any Colony or Territory in the Union, to be for use in any school. || 128. Sculpture, including casts or models of sculpture. || 129. Seeds, bulbs, plants and tubers for planting or sowing only, under such regulations as regards edible kinds as the Customs authorities may impose to safeguard the revenue against diversion into ordinary consumption. || 130. Sheep-dip, sheep-dipping powders, materials suitable only for dip, and dipping tanks. || 131. Specimens illustrative of natural history, and exhibits for public museums. || 132. Sprayers and sprinklers and other apparatus for destroying pests or diseases in stock, plants or trees. || 133. Sulphur and other substances for destroying pests or diseases in stock, plants or tress; and disinfectants. || 134. Thread: Boot and shoemakers', saddlers and sailmakers', and seaming twine. || 135. Tin and Zinc: Bar, plate or sheet; plain or perforated, but otherwise unmanufactured. || 136. Tobacco, the produce of South Africa, imported into the Union overland. || 137. Vaccine virus, toxin and serum. || 138. Vegetables: Fresh or green, but not including potatoes or onions. || 139. Water-boring and pumping apparatus. 140. Wax, viz.: — Paraffin and stearine and stearine grease ordinarily used in the manufacture of candles. || 141. Wine presses and wine pumps. 142. Wood meal. || 143. Wool, straw, hay and forage presses.

Class V.

General *ad valorem* Rate, ten per cent.

144. All goods, wares, or merchandise not elsewhere charged with duty, and not enumerated in the Free List, and not prohibited to be imported into the Union, shall be charged with a duty of ten per cent. *ad valorem*. || (Note. — *Vide* Articles III. (*a*) and XX. of Convention.)

Article III.

A rebate of Customs Duties shall be granted on any goods and articles, the growth, produce or manufacture of the United Kingdom imported therefrom into the Union for consumption therein to the extent following: — || (*a*) In the case of goods and articles liable to Customs Duty under Class I., II. or V., a rebate of 25 per cent. of any duty chargeable thereon at an *ad valorem* rate but of no other duty, and || (*b*) In the case of goods and articles liable under Class III. to duty at an *ad valorem* rate of $2^1/_2$ per cent. a rebate of the whole of such duty. || Provided, that the manufactured goods and articles in respect of which such rebate as aforesaid shall be granted shall be *bonâ fide* the manufactures of the United Kingdom, and that in the event of any question arising as to whether any goods or articles are entitled to any such rebate as aforesaid, the decision of the Minister or other Executive Officer in whom the control of the Customs Department immediately concerned is vested, shall be final.

Article IV.

A rebate similar to that for which provision is made in the last preceding Article shall be granted in like manner and under like provisions to goods and articles the growth, produce or manufacture of any British Colony, Protectorate or Possession granting equivalent reciprocal privileges to the Colonies and Territories belonging to the Union, provided that no such rebate shall be granted in the case of any particular Colony, Protectorate or Possession until on and after a date to be mutually agreed upon and publicly notified by the parties to this Convention.

Article V.

On and after the coming into operation of the Convention signed at Brussels on the 5th day of March, 1902, between the United Kingdom and other Powers relating to the abolition of the bounties on sugar, a special additional duty equivalent to any bounty which may be granted on sugar from any country which is not a party to the said Convention shall be levied and imposed on importation into the Union of such sugar. For the purposes of this Article the term Sugar shall include sugar products such as preserves, chocolates, biscuits, condensed milk and all other analogous products containing in a notable proportion sugar artificially incorporated.

Article VI.

Every contracting party to the Convention shall, subject to the provisions of the Articles of this Convention, collèct the Customs duties

payable upon all goods imported within its borders from outside the limits of the Union for removal from the collecting Colony or Territory into any other part of tho Union, and recover for and pay over to the Government of the Colony or Territory, into which the goods are so removed for consumption, the duties so collected by it on such goods subject to a deduction of 5 per cent. of the duty collected.

Article VII.

The importation of all goods upon which the Customs duties must be paid over by any one party to any other party to the Union, shall be subject to such regulations as may be mutually agreed upon.

Article VIII.

Every Colony and Territory belonging to the Union shall be at liberty to pass through any part thereof, under such regulations as may be agreed upon, goods intended for consumption outside the Union duty free, or at such rate as the interests of the forwarding Colony or Territory may demand.

Article IX.

All accounts as between the parties to the Union shall be made up to the end of each month and all such accounts shall be settled within one month thereafter, subject to any subsequent adjustment which may be found necessary.

Article X.

The importation of any article may be by law prohibited in any of the said Colonies or Territory. || Articles the importation whereof is prohibited in any of the said Colonies or in the said Territory shall be allowed to pass through the prohibiting Colony or Territory to any other Colony or Territory within the Union not so prohibiting, subject to payment of the Customs Duties (if any) imposed under this Convention.

Article XI.

Notwithstanding anything to the contrary contained in this Convention but subject to the provisions of Article X. every Colony or Territory belonging to the Union shall permit goods imported thereinto from any place beyond the limits of the Union, and duly warehoused in such Colony or Territory in accordance with the Customs Laws and Regulations in force therein, to be removed under bond without payment of duty and to be rewarehoused in duly appointed bonded warehouses, subject however to the Customs Laws in force in such first-mentioned Co-

lony or Territory with regard to the removal of goods in bond, and subject to such regulations with regard thereto as may be mutually agreed upon.

Article XII.

Except in cases of duty paid in excess or in error no rebate or refund of any sum in respect of duty paid or bounty or gratuity in respect of any dutiable article shall be allowed or granted by any of the contracting parties to the Convention except upon grounds contained in the Articles of this Convention, or by mutual agreement.

Article XIII.

The collection of the Customs Duty imposed under Class I. of the foregoing Tariff upon fresh, chilled and frozen meat and on animals for slaughter shall be suspended until such time as a majority of the contracting parties to the Convention agree that such suspension shall be removed.

Article XIV.

It shall be permitted to the Territory of Southern Rhodesia to grant, upon all goods and articles, the growth, produce, and manufacture of any part of His Majesty's Dominions or of any British Protectorate a rebate of the Customs Duties payable under the foregoing tariff, equal in amount to the difference between the said duties payable, as aforesaid, and the highest duties which it is permissible to the said Territory to impose under clause 47 of the Southern Rhodesia Order in Council 1898.

Article XV.

Any Colony or Territory within the Union may provide for the suspension of the whole or part of the Customs Duties imposed by the foregoing Tariff on the importation for consumption in such Colony or Territory of any goods or articles comprised in the first part of Schedule „C" annexed hereto; and the Territory of Southern Rhodesia may, in addition, provide for the suspension in whole or part of the duties on any goods and articles comprised in the second part of such Schedule; provided || (*a*) That legislative provision be made for the payment during the period of such suspension by the Government of the said Colony or Territory of a bounty on similar goods and articles imported upon a due declaration for consumption within the said Colony or Territory from any other part of the Union and produced or manufactured therein, such bounty to be equivalent to the duties suspended and to be received and paid in accordance with regulations mutually approved by the parties

immediately concerned. || (*b*) That in the case of the Territory of Southern Rhodesia no bounties shall be payable until the expiration of two years from the coming into force of this Convention.

Article XVI.

Any Colony or Territory granting a rebate or making provision for the suspension of duty on any articles under this Convention shall levy and recover and be responsible for the levying and recovering of the amount of the duty rebated or suspended on the removal of such articles for consumption into any other part of the Union.

Article XVII.

Any Colony or Territory belonging to the Union may at any time levy a Customs Duty upon ale or beer, spirits and blasting compounds, the produce or manufacture of any other such Colony or Territory, not exceeding any duty of excise which may be levied by the importing Colony or Territory on the produce or manufacture of articles of the like description within its own borders, provided that such articles from whatsoever part of the Union they may be imported shall be liable to uniform duties. || Where a duty of Excise is levied on any article in any Colony or Territory belonging to the Union, such article may be removed under bond under terms of Article XI. to any other Colony or Territory in the Union. || Where a prohibition exists in any Colony or Territory of the Union against the manufacture of spirits for sale it shall be lawful for such Colony or Territory to levy on spirits produced within the Union a Customs duty not exceeding that levied on similar spirits produced outside the Union.

Article XVIII.

Any Colony or Territory belonging to the Union may, under suitable regulations, rebate the whole or the part of the duty on methylated spirits or alcohol imported solely for manufacturing or scientific purposes within its borders, and on soap and other substances imported for and exclusively used in connection with the industry of wool-washing.

Article XIX.

Any Colony or Territory belonging to the Union may allow either by free importation or rebate an abatement of the duties on articles imported by and for the use of members of His Majesty's Regular Forces, and also in respect of Wines and Spirits for the use of the Governor,

Lieutenant-Governor, Administrator or Resident Commissioner of any such Colony or Territory.

Article XX.

For the purposes of estimating the amount of Customs duty whenever levied on goods *ad valorem*, and of the declaration and coaths which may be at any time required by any law or regulations in relation to the question of such duty, the current value of such goods shall be taken to be the true current value in the open market for such goods at the place of purchase by the importer or his agent, including the cost of packing and packages, but not including agent's commission if it does not exceed 5 per cent.; provided that in no case shall the true current value as above defined be less than the cost of the goods to the importer at the place of purchase.

Article XXI.

Wherever in any of the Articles of this Convention mutual agreement or assent is referred to, the agreement or assent of the Governments of the Cape Colony, Natal, the Orange River Colony, the Transvaal and Southern Rhodesia shall alone be deemed and taken to be intended; and wherever the decision of a majority is referred to, it shall be deemed to mean a majority of the Governments of such Colonies and Territory.

Article XXII.

Nothing herein contained shall be deemed or taken to prohibit the Transvaal from allowing the importation free of duty into that Colony of any goods and articles, excepting spirits, the growth, produce or manufacture of the Portuguese Province of Mozambique or of British Central Africa.

Article XXIII.

The provisions of this Convention shall continue in force for a period of two years from the date of the coming into operation of this Convention and thereafter until the expiration of not less than twelve months from the date of notice given by the Government of any of the said Colonies or the said Territory of its intention to retire from the Union, which notice shall be given to all the other parties to this Convention; provided, however, that, save by common consent the date at which such retirement shall take effect shall be the 30th day of June next after the expiration of the period of twelve months aforesaid, and that within one month after receiving such notice any other Government may give like notice of intention to retire from the Union, in which event such retire-

ment shall take effect concurrently with the retirement of the Colony or Territory first giving notice.

Article XXIV.

It shall be competent at any time during the existence of the Union for any other Colony, Territory or State of South or Central Africa having a civilised Government to apply to be included as a party thereto and upon all the parties to this Convention signifying their joint assent to such admission and mutually agreeing to the terms and date of such admission, such Colony, Territory, or State shall be admitted, provided that it pass the requisite legislation to give effect to the terms of such admission.

Article XXV.

No amendment or addition to this Convention shall be made without the unanimous consent of the contracting parties hereto, but any difference of opinion with reference only to the true construction of any item of the foregoing Tariff shall be determined by the decision of the majority of the Governments of such contracting parties, provided that no Government shall be deemed to be hereby bound to accept a construction of any item of the said Tariff which is in conflict with any judicial decision binding upon such Government.

Schedule A.

Admission of Basutoland into the Union.

Protocol to the Customs Union Convention entered into between His Excellency the Governor of the Colony of the Cape of Good Hope and His Honour the President of the Orange Free State, on behalf of their respective Government, and given under their hands and the Public Seals of the said Colony and State on the 5th day of April, 1889, and the 28th day of March, 1889, respectively, and to the Further Protocol and Supplement thereto, the said Protocol being signed and sealed as aforesaid by His Excellency the Governor of the said Colony, and His Honour the President of the said State, on the 4th day of June, 1890, and the 19th day of June, 1890, and assented to by His Excellency the Governor of British Bechuanaland on the 4th day of June, 1890, and the said Supplement being signed by His Excellency the Governor of the said Colony and His Excellency the Governor of British Bechuanaland on the 22nd day of September, 1890, and by His Honour the President of the Orange Free State, on the 11th day of September, 1890. ||

His Excellency the Governor of the Colony of the Cape of Good Hope, and His Honour the President of the Orange Free State, mutually on behalf of their respective Governments, having regard to the application made by or on behalf of the Government of Basutoland to be included as a party to the subsisting Customs Union between the said Colony and State, and having regard to the articles of the subsisting Customs Union Convention entered into in the year 1889, between His Excellency the Governor of the Colony of the Cape of Good Hope and His Honour the President of the Orange Free State, on behalf of their respective Governments, do hereby signify their joint assent, in terms of Article X. of the said Convention, to the admission of Basutoland as a party to the said Customs Union, subject to the terms and conditions following, that is to say: — || 1. The admission of Basutoland to the said Customs Union shall take effect and operate on and after the 1st July, 1891, provided that the Government of Basutoland shall before that date have passed the legislation requisite to give effect to the terms and conditions of this Protocol, relative to its admission as a party to the said Customs Union. || 2. His Excellency the High Commissioner shall, at the foot or end of this Protocol signify on behalf of Her Majesty's Government his assent to this Protocol and to the terms and conditions herein contained relative to the admission of Basutoland as a party to the said Customs Union. || 3. So soon as Basutoland shall be admitted as a party to the said Customs Union, the Government thereof shall become, be, and continue bound by the provisions of the aforesaid Customs Union Convention and of this Protocol thereto, and the terms of the said Convention shall, *mutatis mutandis*, be read and construed as though Basutoland were a fourth party thereto, the Government thereof having all the rights and being bound by all the obligations with regard to the respective Governments of the Colony of the Cape of Good Hope, the Orange Free State, and the Territory of British Bechuanaland, to which the said Governments are mutually entitled, and by which they are mutually bound under the said Convention with regard to each other: Provided always that || (*a*) With regard to Articles III., IV., VII., X., and XI. of the said Convention, the mutual agreement or joint assent of the two Governments of the Colony of the Cape of Good Hope, and of the Orange Free State, shall be required and shall be sufficient to carry out the several purposes of the said Articles from time to time. || (*b*) The Government of Basutoland shall be deemed to have agreed and consented to any proposal, matter or thing approved or resolved on in terms of any of the said articles by the mutual agreement or joint assent of the aforesaid two

Governments. || (*c*) No amendment of the provisions of the said Convention shall be made under Article XI. thereof, before consultation with the Government of Basutoland. || (*d*) No agreement, rule, or regulation made by the mutual agreement or joint assent in terms of paragraph (*a*) of this proviso of the two Governments therein referred to, shall at any time be deemed or taken to be applicable to and binding upon Basutoland or the Government thereof, unless such agreement, rule, or regulation shall be also applicable to and binding upon the Orange Free State, and the Government thereof, or unless the Government of Basutoland shall directly express to the said two Governments its assent to such agreement, rule, or regulation. || 4. The Protocol to the said Customs Union Convention, entered into between the Governor of the Colony of the Cape of Good Hope and the President of the Orange Free State, on behalf of their respective Governments, and given under their hands and the Public Seals of the said Colony and State, on the 30th day of April, 1889, and the 24th day of April 1889, respectively, shall be deemed for the purposes of this Protocol to form portion of the said Customs Union Convention.

Given under my hand and the Public Seal of the Colony of the Cape of Good Hope, at Cape Town, this Tenth day of January, One Thousand Eight Hundred and Ninty-one.

Henry B. Loch, Governor.

Given under my hand and the Public Seal of the Orange Free State, at Bloemfontein, this Twenty-eight day of February, One Thousand Eight Hundred and Ninety-one. F. W. Reitz, State President.

On behalf of Her Majesty's Government of Basutoland, I hereby signify my assent to the above Protocol and to the terms and conditions therein contained, relative to the admission of Basutoland as a party to the Customs Union, subsisting between the Colony of the Cape of Good Hope and the Orange Free State.

Given under my hand and the Public Seal of Basutoland, at Cape Town, this Tenth day of January, One Thousand Eight Hundred and Ninety-one. Henry B. Loch, High Commissioner.

Schedule B.

Admission to the Customs Union of the Bechuanaland Protectorate, which is under the direct Administrative Control of the High Commissioner. || Protocol to the Customs Union Convention entered into between

His Excellency the Governor of the Colony of the Cape of Good Hope and His Honour the President of the Orange Free State, on behalf of their respective Governments, and given under their hands and the Public Seals of the said Colony and State, on the 5th day of April, 1889, and the 28th day of March, 1889, respectively, and to the Further Protocols and Supplement thereto, being the Protocol signed and sealed as aforesaid by His Excellency the Governor of the said Colony, and His Honour the President of the said State on the 4th day of June, 1890, and the 19th day of June, 1890, and assented to by His Excellency the Governor of British Bechuanaland on the 4th day of June, 1890, the Supplement signed by His Excellency the Governor of the said Colony and His Excellency the Governor of British Bechuanaland on the 22nd day of September, 1890, and by His Honour the President of the Orange Free State, on the 11th day of September, 1890, and the Protocol signed and sealed as aforesaid by His Excellency the Governor of the said Colony, on the 10th day of January, 1891, and by His Honour the President of the said State on the 28th day of February, 1891, and assented to by His Excellency the Governor of Basutoland, on the 10th day of January, 1891. || His Excellency the Governor of the Colony of the Cape of Good Hope and His Honour the President of the Orange Free State, mutually on behalf of their respective Governments, having regard to the application made by, or on behalf of the Government of the Bechuanaland Protectorate for the inclusion of such portion of the British Protectorate as is under the direct administrative control of the High Commissioner, as a party to the subsisting Customs Union between the said Colony and State, and having regard to the articles of the subsisting Customs Union Convention entered into in the year 1889 between His Excellency the Governor of the Colony of the Cape of Good Hope and His Honour the President of the Orange Free State, on behalf of their respective Governments, do hereby signify their joint assent in terms of Article X. of the said Convention, to the admission of such portion of the said Protectorate as is under the direct administrative control of the High Commissioner as a party to the said Customs Union, subject to the terms and conditions following, that is to say: —

1. The admission of the said portion of the Bechuanaland Protectorate to the said Customs Union shall take effect and operate on and after the 1st July, 1892, provided that the Government of the said Protectorate shall, before that date, have passed the legislation requisite to give effect to the terms and conditions of this Protocol, relative to the admission of the said portion thereof as a party to the said Customs

Union. || 2. His Excellency the High Commissioner shall, at the foot or end of this Protocol, signify on behalf of Her Majesty's Government his assent to this Protocol and to the terms and conditions herein contained relative to the admission of the said portion of the Bechuanaland Protectorate as a party of the said Customs Union. || 3. So soon as the said portion of the Bechuanaland Protectorate shall be admitted as a party to the said Customs Union, the Government thereof shall become, be, and continue bound by the provisions of the aforesaid Customs Union Convention, and of this Protocol thereto, and the terms of the said Convention shall, *mutatis mutandis*, be read and construed as though the said portion of the said Protectorate were a fifth party thereto, the Government thereof having all the rights and being bound by all the obligations with regard to the respective Governments of the bolong of the Cape of Good Hope, the Orange Free State, the Territory of British Bechuanaland and the Territory of Basutoland, to which the said Governments are mutually entitled and by which they are mutually bound under the said Convention with regard to each other: — || Provided always that — || (*a*) With regard to Articles III., IV., VII., X. and XI. of the said Convention the mutual agreement or joint assent of the two Governments of the Colony of the Cape of Good Hope, and of the Orange Free State, shall be required and shall be sufficient to carry out the several purposes of the said Articles from time to time. || (*b*) The Government of the said portion of the said Protectorate shall be deemed to have agreed and consented to any proposal, matter or thing approved or resolved on in terms of any of the said Articles by the mutual agreement or joint assent of the aforesaid two Governments. || (*c*) No amendment of the provisions of the said Convention shall be made under Article XI. thereof, before consultation with the Government of the said portion of the said Protectorate. || (*d*) No agreement, rule, or regulation made by the mutual agreement or joint assent in terms of paragraph (*a*) of this proviso of the two Governments therein referred to, shall at any time be deemed or taken to be applicable to and binding upon the said portion of the said Protectorate or the Government thereof, unless such agreement, rule or regulation shall be also applicable to and binding upon the Orange Free State and the Government thereof, or unless the Government of the said portion of the said Protectorate shall directly express to the said two Governments its assent to such agreement, rule or regulation. || 4. The Protocol to the said Customs Union Convention, entered into between the Governor of the Colony of the Cape of Good Hope and the President of the Orange Free State, on behalf of their respective Govern-

ments, and given under their hands and the Public Seals of the said Colony and State, on the 30th day of April, 1889, and the 24th day of April, 1889, respectively, shall be deemed for the purposes of this Protocol to form portion of the said Customs Union Convention.

Given under my hand and the Public Seal of the Colony of the Cape of Good Hope, at Cape Town, this 30th day of December, 1891.

Henry B. Loch, Governor.

Given under my hand and the Public Seal of the Orange Free State, at Bloemfontein, this 1st day of February, 1892.

F. W. Reitz, State President.

On behalf of Her Majesty's Government of the Bechuanaland Protectorate, I hereby signify my assent to the above Protocol and to the terms and conditions therein contained, relative to the admission of the said portion of the said Protectorate as a party to the Customs Union, subsisting between the Colony of the Cape of Good Hope and the Orange Free State.

Given under my hand and the Public Seal of the Bechuanaland Protectorate, at Cape Town, this 30th day of December, 1891.

Henry B. Loch, High Commissioner.

Schedule C.

Part I.

Corn and grain as described in parts (*a*), (*b*) and (*c*) of item 15 of the Tariff.

Part II.

Blasting compounds. || Butter, butterine, margarine, ghee and other substitutes for butter. || Candles. || Cheese. || Chicory and substitutes for coffee or chicory. Coffee. || Condensed, desiccated or preserved milk or cream. || Fish. || Fruits: dried. || Iron: galvanized corrugated. || Meats. || Oils: not essential or perfumed. || Onions. || Pickles. || Rice. || Sugar. || Tea. || Vegetables, pressed or otherwise preserved. || Wood unmanufactured, including planed, tongued or grooved, plain boards unshaped.

Nr. 13206. **GROSSBRITANNIEN.** — Abkommen zwischen der Regierung und der Cunardlinie über Bau und Wert von Hilfskreuzern.

30. Juli 1903.

An Agreement made the Thirtieth day of July 1903 between the Commissioners for executing the office of Lord High Admiral of the

United Kingdom of Great Britain and Ireland (hereinafter referred to as „the Admiralty") the Board of Trade and the Right Honourable Joseph Austen Chamberlain m. p. His Majesty's Postmaster General (hereinafter called „the Postmaster General" in which expression his successors in office His Majesty's Postmaster General for the time being are respectively intended to be included) for and on behalf of His Majesty of the one part and the Cunard Steamship Company Limited (hereinafter referred to as „the Company") of the other part.

Whereas the Company was registered on the 23rd day of Mai 1878 with a capital of two million pounds divided into 100000 shares of Twenty pounds each and there have been issued of such shares 60000 upon which the sum of Twenty pounds per share has been paid and 40000 upon which the sum of ten pounds per share has been paid: || And whereas since the registration of the Company alterations have from time to time been made in its Articles of Association and the print of the Memorandum and Articles of Association hereunto annexed is a true copy of the Memorandum and Articles of Association of the Company now in force: || And whereas the Company has since its formation maintained lines of steamships running between (1) Liverpool and New York (2) Liverpool and Boston in the United States of America (3) Liverpool and Mediterranean Ports and (4) Liverpool and Havre and the vessels engaged in such services or some of them have been employed and are under the provisions of an Agreement dated the 31st day of July 1899 and made between the then Postmaster General of the one part and the Company of the other part now employed by the Postmaster General in the carriage of mails: || And whereas the Company is the absolute owner of the steamships particularised in the First Schedule hereto free from incumbrances and it has been agreed for the purposes of this Agreement that such steamships were on the 29th day of September 1902 of the respective values set opposite to their names respectively in the said Schedule:

And whereas the Company has in contemplation the building of two steamships of large size and having a speed of from 24 to 25 knots per hour to be run in its line between Liverpool and New York or between other ports in Great Britain and the United States of America: || And whereas by an Agreement bearing date the 24th day of October 1902 and made between the Admiralty (for and on behalf of His Majesty) of the one part and the Company of the other part the Company agreed for the considerations therein appearing to hold at the disposal of the Admiralty for the purpose of either hire or purchase

certain vessels the property of the Company upon the terms and conditions therein appearing: || And whereas His Majesty's Government is desirous that the Company's lines should be maintained under the British flag and British management and to the best advantage and that they should be further improved by the addition of the two contemplated steamships: || And whereas His Majesty's Government is further desirous of securing the right to acquire at any time during the term of this Agreement either on hire or by purchase all or any of the steamships for the time being the property of the Company: || And whereas it has been arranged that His Majesty's mails shall be conveyed by the steamships of the Company during the term of this Agreement in manner and upon the terms hereinhafter specified: || And whereas for the considerations herein appearing the parties hereto have agreed to enter into the agreements on their parts respectively herein contained:

Now it is hereby agreed between the Parties hereto

Part. I.

Special Arrangements.

1. — (1) All references to His Majesty's Government in this Agreement shall be deemed to be references to the Admiralty the Board of Trade and the Postmaster General acting jointly and all acts and notices which may under this Agreement be done or given by His Majesty's Government shall be done or given jointly by the Admiralty the Board of Trade and the Postmaster General and all notices to be given to His Majesty's Government under this Agreement shall be given to or served on the Admiralty the Board of Trade and the Postmaster General respectively. || (2) All references to vessels substituted for the two steamships referred to in Clause 3 hereof or either of them shall deemed to include a reference to any vessel substituted for any vessel already so substituted. || 2. This Agreement is conditional on the Company's Articles of Association being altered by Special Resolution in the terms set forth in the Second Schedule hereto. || 3. — (1) The Company shall fortwith cause to be built for it in the United Kingdom with all due despatch two steamships of large size capable of maintainig a minimum average ocean speed of from 24 to 25 knots an hour in moderate weather suitable in all respects to maintain and develope the Company's line between Liverpool and New York or other ports in Great Britain and the United States of America. || (2) The Company shall before the building of such steamships is started submit the plans and specifications to the Admiralty and if requested so to do by the Admiralty within one month from the

date of the submission of such plans and specifications shall modify the same to meet the reasonable requirements of the Admiralty and each such steamship shall be constructed in accordance with such plans or modified plans to the satisfaction of such inspector as may from time to time be agreed on by the Admiralty and the Company or in default of agreement appointed by the President of the Chamber of Shipping for the United Kingdom for the time being such inspector as aforesaid being employed at the joint expense of the Admiralty and the Company. Provided that such joint employment shall not affect or diminish the liability of the Company in the event of such steamship not fulfilling the conditions of this Agreement. || 4. — (1) The Company shall at all times during the term of this Agreement hold all and every the vessels for the time being the property of the Company (including the steamships particularised in the First Schedule hereto and the two steamships referred to in Clause 3 hereof and all other vessels built for or purchased or otherwise acquired by the Company as and when the same shall have been built purchased or otherwise acquired and so long as such steamships or vessels or any of them shall remain the property of the Company) at the disposal of His Majesty's Government to be hired or purchased upon the terms and conditions set forth in the Third Schedule hereto. || (2) His Majesty's Government shall have the right on giving notice in writing to the Company of their intention so to do to take possession of any vessel which they require to purchase or hire under the provisions of this Agreement immediately on the arrival of such vessel at her port of discharge from the voyage on which such vessel shall be engaged at the time of the receipt by the Company of such notice and after the discharge of her inward cargo. Provided that in case such vessel at the time of such notice has been let out on a charter-party by the Company in accordance with Sub-clause (8) of the next following Clause hereof then and in that case His Majesty's Government shall be only entitled to take possession of such vessel subject to such charter-partie.

5. The Company agree at all times during the term of this Agreement as follows: — || (1) The registered and head office of the Company shall be in Great Britain and the business of the Company shall be carried on there. || (2) His Majesty's Government may determine the next following Clause hereof and withhold the payment to be made thereunder if the Memorandum and Articles of Association of the Company shall (after the same shall have been altered in accordance with Clause 2 hereof and the Second Schedule hereto) be altered so far as affects the

provisions referred to in the said last-mentioned Clause and the said Second Schedule without the previous consent in writing of His Majesty's Government or if the Company shall persistently fail to observe the provisions of Articles 2 23*a* and 30*a* of the said Articles of Association when altered as aforesaid or if the Company makes default in observing or performing any of the provisions of Sub-clauses (8) (13) and (14) of this Clause. || (3) To carry on its business to the best advantage. || (4) Not to unduly raise the freights or charges for the carriage of goods in any of its services. || (5) In the fixing of such freights and charges to give no undue preference as against British subjects. || (6) To submit to the Admiralty the plans of any new vessels (other than the two steamships referred to in Clause 3 hereof) which the Company may intend to build to attain a speed of 17 knots or upwards and if requested so to do by the Admiralty within one month from the date of the submission of such plans to modify such plans to meet the reasonable requirements of the Admiralty but so that (except in the case of vessels to which the following proviso relates) the Company shall not be bound to modify such plans to meet the requirements of the Admiralty when in the bonâ fide opinion of the Company such modifications would be incompatible with the use of the vessel in question for mercantile purposes or for the purposes of the Company's business. Provided that in the case of any such intended vessel as aforesaid being build in substitution for either of the two steamships referred to in Clause 3 hereof such vessel shall be constructed in accordance with such plans or modified plans to the satisfaction of such inspector as may from time to time be agreed on by the Admiralty and the Company or in default of agreement appointed by the President of the Chamber of Shipping for the United Kingdom for the time being such inspector as aforesaid being employed at the joint expense of the Admiralty and the Company. Provided that such joint employment shall not affect or diminish the liability of the Company in the event of the vessel which is being built in substitution as aforesaid not fulfilling the conditions of this Agreement. || (7) To afford to the Admiralty at all reasonable times every facility for fitting on board all or any of the vessels forming the Fleet for the time being of the Company such fittings and arrangements for their armament in the event of their being taken for use as armed cruisers as the Admiralty may think fit (but not so as to interfere with the vessels in their ordinary employment or use for the purposess of the Company's business) and (if required) without charge to keep and maintain in clean order any racers fittings and mountings that may be provided by the

Admiralty in the Company's Storehouse at Liverpool ready to be immediately fitted on board by the Admiralty at their own expense Provided that the Company shall not be required to provide more than 15 000 cubic feet of space with 1000 square feet of floor space in such storehouse. || (8) Not to let out on a charter-party (except to the Indian Government) any vessel for the time being the property of the Company of a speed of 17 knots or upwards unless the Company shall have previously given seven days' notice of its intention so to do to His Majesty's Government accompanied by such evidence of the *bonâ fide* nature of the contemplated charter as shall be reasonably satisfactory to His Majesty's Government Provided that the Company shall be at liberty at any time after the expiration of such seven days to enter into such charter for any period not exceeding six months unless His Majesty's Government shall in the meantime have signified to the Company in writing that it exercises its right under Clause 4 hereof to either purchase or hire such vessel Provided also that the Company shall not without the consent in writing of His Majesty's Government let out on a charter-party any vessel (whether or not of the speed of 17 knots or upwards) which is or has at any time during the previous 12 months been ordinarily employed as a mail ship under this Agreement; but this proviso shall not extend to a vessel whose place in the ordinary mail service has been taken by a newly built or acquired faster vessel if the Company has, at the time of entering into the Charter, a sufficient number of fast vessels efficiently to maintain the mail service. || (9) To secure — || (*a*) that on all vessels for the time being the property of the Company including the two steamships referred to in Clause 3 hereof the master officers and engineers in charge of a watch on board shall always be British subjects and that three-fourths of the crew shall be British subjects unless in the case of the crew the Company is prevented from fulfilling this obligation owing to strikes lock-outs or other labour disturbances and || (*b*) that on the „Campania", „Lucania" and „Umbria" so long as neither of the two steamships referred to in Clause 3 hereof shall have started on its first voyage and thereafter on the „Campania" and „Umbria" and the steamship which has so started until the second of the said steamships shall have started on its first voyage and thereafter on the two steamships referred to in Clause 3 hereof or any vessels or vessel which may under the provision hereof be substituted therefor for the time being all certificated officers other than engineers and not less than one half of the crew carried (unless in the case of the crew the Company is prevented from fulfilling this obligation owing to strikes

lock-outs or other labour disturbances) shall belong to the Royal Naval Reserve or the Royal Naval Fleet Reserve Provided that in the event of any vessel to which this provision applies being lost His Majesty's Government may by notice in writing make this provision applicable to such other vessel of the Company's fleet for the time being as His Majesty's Government may select in lieu of the vessel so lost.

For the average deficiency (if any) in each year in the number borne in any such vessel as aforesaid below the proportion of men belonging to the Royal Naval Reserve or Royal Naval Fleet Reserve in this sub-clause mentioned unless it shall be determined by arbitration under Clause 35 hereof that such deficiency has not been due to any default or neglect on the part of the Company liquidated damages at the rate of 12 *l.* a head shall be payable by the Company to His Majesty's Government and such damages may be deducted from any monthly instalment of the annual sum payable by His Majesty's Government under the next following Clause hereof or from any money payable under the Agreement of the 24th day of October 1902 or may be otherwise recovered as His Majesty's Government shall think fit. || The Company shall furnish in each year to the Admiralty a return showing the numbers of Royal Naval Reserve or Royal Naval Fleet Reserve officers engineers and men borne in each vessel during the preceding year distinguishing the classes of seamen and firemen The return shall also show the total number of officers engineers crew and firemen borne during the period. || For the purposes of this sub-clause the expression „crew" shall not include persons exclusively employed in the Engine Department or in attending to the passengers and their wants such as stewards &c. || As regards the complement of the engine department in the vessels to which the foregoing provisions relate and the crews (including the complement of the engine department) of all other vessels of a speed of 17 knots and upwards for time being the property of the Company the Company will use their best endeavours and do all that is reasonably possible to secure the employment of the largest possible proportion of members of the Royal Naval Reserve and the Royal Naval Fleet Reserve. || (10) To keep the vessels for the time being the property of the Company (except such vessels as may for the time being be at the risk of the Admiralty) in a thoroughly seaworthy condition and good repair throughout and to use their best endeavours to maintain the steamships constructed under Clause 3 hereof and any vessels or vessel substituted for such steamships or either of them under the provisions of this Agreement in such condition as to be capable of maintaining a minimum

average ocean speed of 24 1/2 knots an hour in moderate weather and to permit His Majesty's Government at all reasonable times (but so as not to interfere with the regular employment of the vessels) to inspect all vessels for the time being the property of the Company whenever they desire to do so in order to see that such vessels are kept in such condition as aforesaid In the event of His Majesty's Government being of opinion on any such survey that the said vessels or any one or more of them are not in such condition His Majesty's Government may give notice in writing to the Company to that effect and require the Company to put such vessels or vessel in such condition and the Company shall forthwith at the cost and charge of the Company comply with such notice. || (11) Within three months after the expiration of every year calculated from the date when the vessel as to the speed of which proof is required under this sub-clause starts on her first voyage to adduce to His Majesty's Government such reasonable proof from the actual running of the vessels as His Majesty's Government may require that each of the two steamships mentioned in Clause 3 hereof or any vessel built under the provisions of this Agreement in substitution for either of such steamships has during the preceding year been capable of maintaining a minimum average ocean speed of 24 1/2 knots an hour in moderate weather. || (12) To permit the Admiralty to make at their own cost all reasonable provision (but not so as to interfere with the gangways of the vessels in their ordinary employment or otherwise to interfere with the use of the vessels for mercantile purposes or for the purposes of the Company's business) for the fitting of such pillars and supports or the making of such other arrangements as to enable guns to be carried on any vessel for the time being the property of the Company if and when the same shall be purchased or hired by the Admiralty under this Agreement. || (13) To register and keep registered all vessels the property for the time being of the Company under the British flag and not by any act or omission to lose or endanger the British registry or the right to fly the British flag. || (14) To sell no vessel of the speed of 17 knots or upwards for the time being the property of the Company without the previous consent in writing of His Majesty's Government Provided that such consent shall not be unreasonably withheld particularly in the case of vessels which shall no longer be suitable by reason of age depreciation or otherwise for the Company's business Provided that if any dispute arise as to whether any such consent is or is not being unreasonably withheld then in the case of a proposed sale of either of the two steamships mentioned in Clause 3 hereof or of any vessel

built in substitution for either of such steamships or of the „Campania“ or „Lucania“ the decision of His Majesty's Government shall be final and conclusive but in any other case the matter shall be referred to arbitration under Clause 35 hereof and in making his award the arbitrator shall take into consideration all the then existing obligations of the Company towards His Majesty's Government Provided also that the Company shall not without the consent in writing of His Majesty's Government sell any vessel (whether or not of the speed of 17 knots or upwards) which is or has at any time during the previous 12 months been ordinarily employed as a Mail-ship under this Agreement but this proviso shall not extend to a vessel whose place in the ordinary mail service has been taken by a newly built or acquired faster vessel if the Company has at the time of sale a sufficient number of fast vessels efficiently to maintain the mail service. || (15) To sell no vessel of the speed of under 17 knots without giving seven days' previous notice in writing to His Majesty's Government and allowing His Majesty's Government the option of purchasing such vessel under Clause 4 of this Agreement.

6. His Majesty's Government shall subject in all respects to the provisions of the next two following Clauses hereof pay to the Company during the term of this Agreement out of such aids or supplies as may for the time being be provided or appropriated by Parliament for the purpose the sum of one hundred and fifty thousand pounds per annum as to seventy-five thousand pounds part thereof as from the date upon which the first of the two steamships referred to in Clause 3 hereof shall sail on her first voyage and as to seventy-five thousand pounds the balance thereof as from the date upon which the second of such steamships shall sail on her first voyage Such annual payments shall be made by equal monthly instalments on the first day of the month Provided that only a proportionate part of the annual payment calculated from the date upon which each of such steamships shall sail on her first voyage shall be paid on the first day of the month next succeeding the day upon which the steamship (upon the sailing of which such instalment shall become payable) shall sail on her first voyage. || 7. If in the case of either of the two steamships mentioned in Clause 3 hereof or any vessel substituted therefor the Company shall before such steamship sails on her first voyage fail to adduce to the satisfaction of the Admiralty reasonable proof from trials that such vessel will be capable of maintaining a minimum average ocean speed of 24½ knots an hour in moderate weather but shall prove to the like satisfaction that such vessel will be capable of maintaining an average ocean speed of not less

than 23½ knots an hour under such conditions as aforesaid then such deduction shall be made from the annual payment of 150000 l. to be made by His Majesty's Government under the last preceding Clause hereof as shall be agreed upon or failing such agreement shall be determined by arbitration by an Arbitrator appointed by the Lord Chief Justice for the time being and the decision of such Arbitrator shall be final. || And whereas the amount of the said annual payment mentioned in the last preceding Clause of this Agreement has been arrived at upon consideration — || (1) of the special value to the Admiralty of the provision by the Company of two steamships of the high rate of speed mentioned in Clause 3 hereof and (2) of the fact that the present fleet of the Company sonsists of the vessels specified in the First Schedule hereto and (3) of the other obligations and services to be undertaken and rendered by the Company towards His Majesty's Government under this Agreement Now it is hereby agreed and declared that it either of the said two new steamships referred to in Clause 3 hereof or any vessel substituted therefor shall not before such vessel sails on her first voyage be proved to the reasonable satisfaction of the Admiralty to be capable of maintaining a minimum average ocean speed of 23½ knots an hour in moderate weather then the special value of such vessel to the Admiralty so far as regards speed shall be deemed not to exist and the annual payment of 150000 l. shsll be reduced to such an amount as in default of agreement may be determined by arbitration by an Arbitrator appointed by the Lord Chief Justice for the time being in manner aforesaid Provided that in fixing the reduced amount of such payment under the provisions of this paragraph the Arbitrator shall have regard to the fact that an annual payment of 10000 l. has been accepted by the Company under Clause 6 of the Agreement hereinbefore mentioned dated the 24th day of October 1902 in respect of a vessel having an average continuous ocean speed in ordinary weather of not less than 21 knots an hour and in fixing either under this or the first paragraph of this Clause the amount to be paid the arbitrator shall take into consideration as well the additional cost of building and running a vessel capable of maintaining a higher speed than 21 knots an hour under the conditions aforesaid as also the obligations and services undertaken and rendered by the Company by virtue of this Agreement Provided also that the amount fixed under the provisions of this Clause shall not be liable to reduction under the provisions of the next following clause hereof unless the said vessels or either of them shall fail to maintain as an average ocean speed in moderate weather the speed in respect of which the

arbitrator has fixed such reduced amount and provided further that if the Company shall subsequently to any arbitration satisfy the Admiralty that the speed of the said vessels or either of them has been increased and that the said vessels or either of them can maintain an average ocean speed in moderate weather exceeding 23 1/2 knots the amount of the said annual payment shall be proportionately increased to an amount to be agreed between the Admiralty and the Company or failing agreement to be settled by arbitration by an Arbitrator appointed by the Lord Chief Justice for the time being in manner aforesaid it being the intention of the parties that if and so soon as the Company shall satisfy the Admiralty that they have remedied in every respect their initial failure to comply with the obligations of this Agreement with respect to the two steamships referred to in Clause 3 hereof or any vessel substituted therefor the said annual payment shall subject to any deductions to be made under the next ensuing clause hereof be increased to 150 000 *l.* but shall in no event exceed that sum.

8. And in view of the considerations recited in the last preceding clause hereof it is hereby further agreed and declared that if at any time during the continuance of this Agreement (*a*) there be a total loss actual or constructive or capture of either of the two steamships mentioned in Clause 3 hereof or of any vessel built in substitution therefor or (*b*) either of such steamships or any vessel built in substitution as aforesaid be not shown in manner provided by Clause 5 (11) hereof in any year by actual running to be capable of maintaining as aforesaid a minimum average ocean speed in moderate weather of 24 1/2 knots an hour or become less efficient (reasonable wear and tear excepted) than the same was when constructed and steps be not forthwith taken to make good such loss of efficiency or (*c*) the Company's fleet (other than the two steamships mentioned in Clause 3 hereof or any vessel built in substitution as aforesaid) become less efficient than the same now is (reasonable wear and tear excepted) and steps be not forthwith taken to make good such loss of efficiency or (*d*) the other obligations and services to be undertaken and rendered by the Company as aforesaid be not duly observed and rendered Then and in every such case the annual payment to be made by His Majesty's Government under Clause 6 hereof shall be reduced by such a sum as shall be agreed upon between His Majesty's Government and the Company or failing such agreement shall be fixed by arbitration under Clause 35 hereof Provided that if the Company shall with all due despatch after either of the said two steamships or any vessel built in substitution therefor shall have been lost or captured

as aforesaid proceed to build in substitution therefor a vessel fulfilling in all respects the conditions of this Agreement with respect to the vessel so lost or captured and shall with regard to such vessel observe the provisions of Clause 5 (6) hereof the annual payment under Clause 6 hereof shall not during the building of such vessel be reduced by reason of the loss or capture of the vessel in substitution for which the same is being built Provided also that if His Majesty's Government purchase either of the said two steamships or any vessel built in substitution therefor the purchase shall for the purpose of this Clause be equivalent to a total loss of the steamship or vessel purchased except that the Company shall not be at liberty without the written request of His Majesty's Government to build a vessel similar to the steamships referred to in Clause 3 hereof in substitution for the steamship or vessel so purchased but nothing herein contained shall limit the right of the Company to use the purchase price for the purpose of building or purchasing any vessel or vessels suitable for the purposes of the Company. || In any arbitration held under the provisions of this Clause the arbitrator shall give special consideration to any diminution in value for Admiralty purposes of the fleet of the Company or any vessel thereof by reason of default in or breach of any of the provisions of this Agreement in relation to the speed of any vessel or otherwise. || 9. Up to the date upon which the first Seventy-five thousand pounds shall become payable under Clause 6 hereof all sums which but for this Agreement would be payable by His Majesty's Government to the Company under the provisions of the hereinbefore recited Agreement of the twenty-fourth day of October 1902 shall continue to be paid and as from that date until the second Seventy-five thousand pounds shall become payable under the said last-mentioned Clause hereof one moiety of all sums which but for this Agreement would be payable by His Majesty's Government to the Company under the said Agreement of the twenty-fourth day of October 1902 shall continue to be paid. Except for the purpose of this Clause the said Agreement of the twenty-fourth day of October 1902 is hereby terminated.

10. His Majesty's Government shall advance to the Company a sum equal to the cost to the Company of the two steamships referred to in Clause 3 hereof but not exceeding in any event Two million six hundred thousand pounds upon the terms and conditions following: — || (*a*) The loan shall be secured by a charge upon the whole of the Company's assets including the steamships particularised in the First Schedule hereto and the two steamships referred to in Clause 3 hereof and all other vessels built for or purchased or otherwise acquired by the Company

so long as such steamships or vessels or any of them shall remain the property of the Company. || (*b*) Such charge shall be secured by the Company by a Trust Deed and by Mortgages on the steamships particularised in the First Schedule hereto and on the two steamships referred to in Clause 3 hereof and otherwise as more particularly provided by the Trust Deed and such Trust Deed shall be framed in the terms of the draft hereunto annexed which for the purpose of identification has been subscribed by the President of the Board of Trade and the Chairman of the Company. || (*c*) The loan shall be advanced by instalments on the inspector referred to in Clause 3 hereof certifying that the provisions of such Clause have been complied with up to the date of such certificate as and when the instalments to be paid by the Company on account of the cost of the two steamships referred to in Clause 3 hereof shall become payable and to a like amount. || (*d*) The loan shall carry interest (and without regard to the dates of the actual payment of the several advance instalments) as from the following dates that is to say. On one half part thereof as from the day upon which the first of the two steamships referred to in Clause 3 hereof shall sail on her first voyage and on the other half part thereof as from the day upon which the second of such steamships shall sail on her first voyage. || (*e*) The interest payable on so much of the loan as shall for the time being be due shall be at the rate of $2\,^3/_4$ per cent. per annum. || (*f*) The loan shall be repaid by the Company by annual instalments each of which shall be equal to $^1/_{20}$th of the total amount of the advance. The first of such instalments shall be payable at the expiration of one year from the date upon which the second of the steamships referred to in Clause 3 hereof shall sail on her first voyage. || 11. The Company shall as soon as the Articles of Association of the Company shall have been altered as aforesaid issue to two nominees of His Majesty's Government one Twenty-pound share of the Company carrying the same voting power and other rights and privileges as an ordinary Twenty-pound share of the Company but for the purpose of demanding a poll in respect of and voting against any special resolution involving any alteration of the Company's Articles of Association so far as respects the provisions referred to in Clause 2 hereof and the Second Schedule hereto also carrying the following additional rhights and privileges that is to say (*a*) the right to demand a poll upon the occasion of any such special resolution as aforesaid and (*b*) the right to give against any such special resolution as aforesaid additional votes equal in number to one-fourth of the number of votes possessed by the Company's share stock or debenture holders for the time being.

Part II.

Carriage of Mails.

12. For all the purposes of this Agreement the term „Mails“ means and includes all bags boxes baskets or other packages of letters and other postal packets including parcels without regard either to the country or place to which such packages may be addressed or to the country or place in which they may have originated and also all empty bags boxes baskets or other receptacles and all stores and other articles used or to be used in carrying on the Post Office service. || The term „Postal Packet“ means any article for the time being transmissible by post. || The term „Parcel“ means a postal packet which by the Regulations of the Treasury made in pursuance of the Post Office Acts is defined to be a parcel and the term „Parcel Mails“ means Mails (as hereinbefore defined) consisting of receptacles containing parcels only and of empty receptacles. || The term „Mail-ship“ means a steam-ship provided for the performance of the weekly Mail-service to which this Agreement relates. || The term „Month“ means a calendar month. || 13. The Company shall during the term of this Agreement convey by means of Mail-ships from Liverpool (*viâ* Queenstown) or from Queenstown to New York once in every week on such day as hereinafter provided all such Mails as shall for the purpose of such conveyance be tendered or delivered at Liverpool and Queenstown respectively to the Company or any of their Agents Officers or Servants by the Postmaster General or any of his Officers or Agents. || 14. Each of the Mail-ships shall on every Saturday as soon as possible after the advertised sailing hour and after the Mails are embarked (or at such other time as the Company with the consent of the Postmaster General may fix) put to sea from Liverpool and proceed direct to Queenstown and shall remain at Queenstown until the Mails to be there embarked have been received on board and shall thence and without unnecessary delay proceed direct to New York and the Company and their Officers and Servants shall use their best endeavours to complete the voyage of each such Mail-ship between the said places respectively within the shortest possible time consistent with prudent navigation. || 15. — (1) The Mail-ships shall be in all cases good substantial and efficient steam-vessels of adequate capacity power and speed and shall be provided and kept by the Company seaworthy and in complete repair and readiness to the satisfaction of the Postmaster General. || (2) Without prejudice to the generality of the foregoing provision and subject to the other provisions of this Agreement the Company shall employ as Mail-

ships the fastest of the steam-ships for the time being belonging to or chartered by the Company. || (3) If any of the fastest of the Company's Steam-ships — || (*a*) Shall be disabled for the conveyance of the Mails or || (*b*) Shall be hired by His Majesty's Government under the provisions of this Agreement for some purpose other than the conveyance of Mails or || (*c*) Shall be temporarily withdrawn for the purpose of the usual annual overhauling requisite for the maintenance of efficiency || the Company shall employ for the mail service the steam-ship or steam-ships ranking next in rate of speed amongst the available steam-ships for the time being belonging to or chartered by the Company. Provided that the Company shall so arrange for the annual overhaul of their fastest steam-ships as to detract in the least possible degree from the rapidity of the Mail service and its continuous and efficient performance. || 16. The company shall at their own cost and to the satisfaction of the Postmaster General provide on each of the Mail-ships a separate room or rooms for the convenient and secure deposit and custody of the Mails (other than Parcel Mails) under lock and key and shall keep the Parcel Mails in a place of safety and take all reasonable precautions for their safe custody. || 17. If the Postmaster General shall at any time desire that the Mails be sorted on board the Mail-ships the following provisions shall apply that is to say: — || (1) The Company shall provide on each of the Mail-ships for the purpose of sorting and making up the Mails a separate and convenient room or rooms of such dimensions as the Postmaster General may from time to time reasonably require. || (2) Every such room shall be provided by the Company with all such furniture lamps fittings and other conveniences as shall be necessary or convenient for the purpose of sorting and making up the Mails and all such furniture lamps fittings and other conveniences shall be from time to time cleansed and kept in repair and the oil or other means of illumination for the lamps shall be supplied by and at the cost of the Company. || (3) The services of the crew shall subject to the directions of the Master of the ship from time to time be given in the conveyance of the Mails between the mail room and the sorting room or rooms. || (4) The Company shall receive and allow to remain on board each of the Mail-ships on her voyage between Liverpool and New York and also while stopping at Queenstown and whether such Mail-ship shall be with or without Mails on board such number of officers of the British or United States Post Office as shall be required for the purpose of sorting and making up the Mails and shall provide suitable accommodation and victualling for such officers either as first-cabin passengers or as second-cabin passengers at

the option of the Postmaster General. || (5) In respect of the accommodation for sorting and making up the Mails as aforesaid and in respect of the said officers the Postmaster General shall pay to the Company in addition to all sums payable for the conveyance of the Mails under this Agreement such sum of money as may be agreed upon between him and them or failing such agreement as shall be determined by arbitration under Clause 35 hereof on the basis of a fair payment for the accommodation given. || 18. The Master or Commander of each Mail-ship shall (unless otherwise requested by the Postmaster General) without any payment other than the sums payable to the Company under this Agreement take charge of the Mails and every such Master or Commander shall make the usual oaths or declarations now or hereafter required by the Postmaster General in such and similar cases and furnish to the Postmaster General abstracts of the log and such certificates showing the due delivery of the Mails and such other information respecting the Mails as the Postmaster General or his officers or agents may require and every such Master or Commander shall himself or by one of his officers immediately on the arrival of the Mail-ship at New York deliver the Mails into the hands of the proper officer of the United States Post Office or such other person as the Postmaster General shall authorise to receive the same.

19. The Company shall not nor shall the Master or Commander of any Mail-ship without the consent of the Postmaster General receive or permit to be received on board any Mail-ship any letters for conveyance from Liverpool or Queenstown other than those comprised in the Mails conveyed under this Agreement or such as are for the time being exempted by law from the exclusive privileges of the Postmaster General. || 20. — (1) The Company shall during the continuance of this Agreement (in addition to conveying Mails by the Mail-ships as herein provided) convey by any steam-ship of the Company (except as hereinafter provided) performing any service undertaken by the Company for their own purposes — || (*a*) All Parcel Mails from New York to Queenstown and Liverpool and || (*b*) All Mails from the United Kingdom to the United States of America || which the Postmaster General or any of his officers or agents shall from time to time require to be conveyed. || Provided that if in consequence of additions to its fleet the Company shall at any time establish a new fast weekly mid-week service between Great Britain and the United States of America (that is to say a service performed by vessels of a speed of 18 knots and upwards per hour) and the Postmaster General shall under the powers conferred by this Clause send by means

of such new service a regular Mail to the United States of America which shall be equal in weight on an average of 12 months to not less than 10 per cent. of the average weight of the Mail sent each week by a Mail-ship under this Agreement then the Postmaster General shall make such additional payment to the Company for the advantage thus obtained as (regard being had to the other payments to the Company under this Agreement) may be agreed upon or failing agreement settled by arbitration under Clause 35 hereof. || (2) All such Mails as in this Clause mentioned shall be delivered by the Master or Commander of the steam-ship at the ship's side to the proper officer or agent of the Post Office at any port or place to which such steam-ship shall sail and for delivery at which such Mails are tendered. || 21. So long as the Postmaster General shall deem it expedient to maintain a special service by railway and mail packet from London to Queenstown on Saturday afternoons for the conveyance of Mails to be embarked by the Company at Queenstown the Company shall pay to the Postmaster General one-third of the cost of so much of the said special service as relates to the conveyance of Mails between London and Dublin (Island Bridge) and the certificate of the Comptroller and Accountant General of the Post Office as to the cost of such service shall be accepted by the Company as conclusive evidence of such cost. || 22. The Company shall undertake and make all necessary and proper arrangements in connection with any statutory regulations of the Local Government Board relative to public health or in connection with quarantine which may be required in respect of the Mail-ships and no deductions shall be made from the subsidy payable under this Agreement nor shall the Company be otherwise liable for or by reason of any delay in the landing embarkation delivery or conveyance of any Mails arising from the observance of any such regulations or the imposition of quarantine. || 23. The Company shall not attempt to exercise any lien upon the Mails for or in respect of a general average contribution. || 24. — (1) Nothing in this Agreement shall exempt the Company or any ship of the Company from the operation of any Act of Parliament Order in Council byelaw or other provision of the law in relation to explosives. || (2) The Company shall not convey in any steam-ship conveying mails any article which in the opinion of the Postmaster General is likely to endanger the Mails.

25. The Company shall be responsible for the loss or damage of any parcel or of any registered postal packet of any kind conveyed or tendered for conveyance under this Agreement (unless such loss or damage be caused or occasioned by act of God the King's enemies pirates

restraints of princes rulers or people jettison barratry fire collision or peril or accidents of the seas rivers and steam navigation Provided nevertheless that the expression „barratry" shall not be deemed to include any unlawful act in respect of the Mails on the part of the Master or officer (having charge thereof) and in the event of any such loss or damage (except as aforesaid) the Company shall be liable to pay to the Postmaster General in respect of each parcel or registered postal packet so lost or damaged (subject to the proviso hereinafter contained) such sum of money as shall be equal to the amount which may have been awarded and paid by the Postmaster General at his sole option and discretion (and although not under any legal obligation) to the sender or addressee of such parcel or registered postal packet as compensation for the loss or damage thereof Provided that such sum shall not in any exceed one pound per parcel or two pounds per registered postal packet of any kind Provided also that the aggregate amount of the sums payable by the Company under this Clause shall not exceed the sum of Five hundred pounds in respect of any one voyage. || 26. In consideration of the covenants and agreements in this Part of this Agreement contained and on the part of the Company to be observed and performed and of the due and faithful performance by the Company of all the services in relation to Mails provided for by this Agreement there shall be payable to the Company during the term of this Agreement (out of such aids or supplies as may from time to time be appropriated by Parliament for that purpose) || (1) A yearly sum after the rate of Sixty-eight thousand pounds per annum or (in the event of any such default or failure as hereinafter mentioned) so much of the said sum as shall remain payable in respect of any year after making such deductions therefrom (if any) as hereinafter in that behalf mentioned in respect of any such default or failure as hereinafter mentioned; || (2) Whenever in any one week more than 100 tons measurement (that is to say 4000 cubic feet) of parcel-mails (exclusive of empty receptacles) in the aggregate are conveyed in either direction from Liverpool and Queenstown to New York or from New York to Queenstown and Liverpool (whether by the Mailships or by any other steamships of the Company) a further sum of twenty-six shillings and threepence for every complete ton measurement (that is to say 40 cubic feet) of parcel-mails (exclusive of empty receptacles) conveyed in that direction in excess of 100 tons measurement Provided that in lieu of the further sum last herein-before mentioned the Postmaster General may at his option pay the rates of freight for the time being charged by the Company on similar parcels to other com-

panies or firms whose business it is to carry parcels but all parcels for which the said rates of freight are paid by the Postmaster General shall be carried by the Company subject to terms and conditions similar to those upon which the parcels of such other companies or firms are carried and not under the terms and conditions of this Agreement. || 27. And whereas the said annual payment of 68 000 *l.* to be made by His Majesty's Government has been fixed having regard to the obligations and services to be undertaken and rendered by the Company to His Majesty's Government under Part II. of this Agreement now it is hereby agreed that if at any time during the continuance of the Agreement — || (1) the Company fail to provide at Liverpool one of the fastest of the steamships for the time being belonging to or chartered by the Company and available for the conveyance of the Mails in accordance with the provisions of this Agreement ready to put to sea on and at the appointed day and hour, or || (2) if such steamship fails — || (*a*) To put to sea on and at the appointed day and hour or immediately after the Mails are embarked, or || (*b*) To proceed direct to Queenstown, or || (*c*) To remain at Queenstown until the Mails to be there embarked have been received on board, or || (*d*) Immediately upon the receipt of such Mails to proceed direct to New York, or || (3) if the Company makes default in the performance of any other of the services undertaken to be rendered by the Company under Part II. of this Agreement || then and so often as any such default shall happen (unless such default arose wholly or in part from any cause or causes beyond the control of the Company) there shall be deducted from the annual payment which would in the absence of any such default be payable to the Company such a sum as shall be agreed upon between the Postmaster General and the Company or failing such Agreement be fixed by arbitration under Clause 35 hereof as representing the proportionate value of the service in which default has been made having regard to the aggregate services covenanted to be performed by the Company and the total sum payable under this Part of this Agreement.

28. — (1) The said yearly sum of 68 000 *l.* shall be payable by monthly instalments and all accounts in relation to the payments to be made by the Postmaster General to the Company as hereinbefore provided and any deductions therefrom as hereinbefore provided shall be made out and settled monthly up to and or as soon as cenveniently may be after the end of each month and the amount (if any) which shall be due to the Company on each such monthly account shall be paid by the Postmaster General at the General Post Office in London out of such aids or supplies

as aforesaid upon the settlement of each such account. || (2) All such several payments as aforesaid shall be received by the Company in full satisfsction and discharge of all claims and demands by them for or on account of the services hereby contracted to be performed in relation to the conveyance of Mails or any damages losses or expenses which may be sustained by the Company in respect thereof. || (3) For the purpose of the accounts and payments referred to in this Clause the said yearly subsidy of Sixty-eight thousand pounds shall be deemed to accrue from day to day subject to the liability of the same to be altered by such deductions as aforesaid. || 29. If on the determination of this Agreement any Mail-ship or other steam-ship shall have started with the Mails on board in conformity with this Agreement but shall not have delivered such Mails such voyage or voyages shall be continued and perfermed and such Mails shall be conveyed and delivered in all respects as if this Agreement had remained in force with regard to such ship and services and in such case this Agreement shall accordingly be deemed to terminate upon the due delivery of the said Mails. || 30. The Company shall not assign underlet or dispose of the benefit of this Part of this Agreement or of any of the provisions thereof without the consent of the Postmaster General signified by an instrument in writing. || 31. In case of any great or habitual breach of this Part of this Agreement or of any covenant matter or thing therein contained on the part of the Company its officers agents or servants the Postmaster General may if he shall think fit but notwithstanding there may or may not have been any former breach of this Part of this Agreement by an instrument in writing determine this Part of this Agreement and the Company shall not be entitled to any compensation in respect of such determination and such determination shall not deprive the Postmaster General of any right or remedy to which he would otherwise be entitled by reason of such breach or any prior breach of this Part of this Agreement. || 32. — (1) Any notice to determine this Part of this Agreement shall be served by being delivered at or transmitted by post to the Company at its principal office for the time being. || (2) All other notices and all directions or requisitions which the Postmaster General or his Offfcers or Agents are hereby authorised to give to the Company its Officers Servants or Agents may at the option of the Postmaster General his Officers or Agents either be delivered to the Master or Commander of any steam-ship or other Officer or Agent in charge or menagement of any steam-ship or left for or forwarded by post to the Company at any office of the Company and any notices directions or requisitions so given or left shall be binding

on the Company. || 33. As from the date when this Agreement comes into force the said Agreement dated the 31st day of July 1899 in relation to the carriage of Mails shall be deemed to be determined.

Part III.

Term of Agreement and Incidental Provisions.

34. This Agreement shall come into force on the date hereof and shall remain in force until the expiration of 20 years as from the date upon which the second of the two steamships referred to in Clause 3 hereof shall sail on such first voyage as is described in Clause 6 hereof and the period during which this Agreement is in force is in this Agreement referred to as the „term of this Agreement". || 35. In the event of any difference or dispute arising between His Majesty's Government or the Admiralty or the Bord of Trade or the Postmaster-General on the one hand and the Company on the other hand regarding this Agreement or any matter or thing therein contained or relating thereto every such matter in difference or dispute except as herein otherwise provided shall be settled and determined in manner provided by the Arbitration Act 1889 or any Acts amending the same. || 36. In pursuance of the provisions contained in the House of Commons (Disqualification) Act 1782 no member of the House of Commons shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom contrary to the true intent and meaning of the said Act. || 37. Having regard to the Standing Orders of the House of Commons this Agreement shall not be binding until it has been approved by a Resolution of the House of Commons. || 38. So soon as the special resolution referred to in Clause 2 hereof and the Second Schedule hereto shall have been confirmed the Directors of the Company shall forthwith proceed to execute and do all such instruments acts and things as may be necessary or proper for giving full effect to this Agreement and in particular necessary or proper or if required so to do by His Majesty's Government they will cause the seal of the Company to be re-affixed hereto or to be affixed to as upplementary document confirming this Agreement. || 39. The Schedules to this Agreement shall be deemed to be part of this Agreement in all respects as if the same had been incorporated therein. || 40. The marginal notes hereto shall not affect the construction hereof. || In witness whereof two of the Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland and the Postmaster-General have hereunto set their hands and seals the Board of Trade have hereunto caused their Seal to be affixed and the Company has

hereunto caused its Common Seal to be affixed the day and year first before written.

The first Schedule.

Name of Vessel	Port of Registry	Official Number	Tonnage Gross Register	Agreed Value as on the 29th day of September 1902
				£
Saxonia	Liverpool	110 648	14 280	301 380
Ivernia	„	110 643	14 057	299 957
Lucania	„	102 105	12 952	356 839
Campania	„	102 086	12 950	356 839
Ultonia	„	109 478	8 844	126 773
Umbria	„	91 159	8 127	107 052
Etruria	„	91 187	8 119	107 052
Aurania	„	87 839	7 268	71 368
Sylvania	„	105 282	5 598	63 387
Veria	„	110 564	3 228	43 883
Pavia	„	106 853	2 945	39 007
Tyria	„	106 870	2 936	39 007
Cypria	„	109 406	2 945	39 007
Aleppo	„	50 370	2 146	14 628
Saragossa	„	68 098	2 166	9 752
Cherbourg	„	71 694	1 614	9 752
Skirmisher	„	87 990	607	4 876
			110 782	1 990 559

The Second Schedule.

Special Resolution to be passed by Company.

That the Articles of Association be altered as follows: —

1. By substituting for Clause 2 thereof a new clause, as follows: — 2. — (1) It is to be regarded as a cardinal principle of the Company that it is to be and remain under British control, and accordingly — (A) No foreigner shall be qualified to hold office as a Director of the Company or to be employed as one of the principal officers of the Company. (B) No share in the Company shall be held by or in trust for or be in any way under the control of any foreigner or foreign corporation or any corporation under foreign control. (2) In this clause the expression „foreigner" means any person wo is not a British subject,

and the expression „foreign corporation“ means any corporation other than a corporation established under and subject to the laws of some part of His Majesty's dominions and having its principal place of business in those dominions. || The expression „corporation under foreign control“ includes: — || (A) A corporation of which the majority of the Directors or persons occupying the position of Directors by whatever name called are foreigners. || (B) A corporation shareholders in which holding shares or stock conferring a majority of the votes are foreigners or foreign corporations or persons who hold directly or indirectly for foreigners or foreign corporations. || (C) A corporation which is by any other means whether of a like or of a different character in fact under the control of foreigners or foreign corporations. || (D) A corporation the executive whereof is a corporation within (A) (B) or (C). || And the expression „principal officers“ of the Company shall be deemed to mean and include persons holding the following or any analogous positions: — || (i) General Manager. || (ii) Assistant General Manager. || (iii) Secretary. || (iv) Assistant Secretary. || (v) General Superintendent. || (vi) Assistant General Superintendent. || (vii) Marine Superintendent. || (viii) Assistant Marine Superintendent. || (ix) Superintendent Engineer. || (x) Assistant Superintendent Engineer. || (xi) Masters and Officers and Engineers in charge of a watch on board any of the Company's ocean steamships. || (3) Whenever a majority of the Directors certify in writing that there is, in their opinion reason to believe that any share in the Company is in violation of subparagraph (B) of paragraph (1) of this clause, held by or in trust for or in any way under the control of a foreigner or foreign corporation or any corporation under foreign control the Directors shall call on the holder of such share to prove to their satisfaction that the share in question is not so held and unless within three weeks thereafter such proof is given the Directors shall serve such holder with a requisition in writing to transfer such share to some properly qualified person approved by them and unless such transfer is duly made and delivered to the Company within three days after the service of such requisition the Directors shall sell the share at the market price to any properly qualified person approved by them and may authorise any officer of the Company to execute on behalf of the holder a transfer of such share to the purchaser and a transfer executed under such authority shall be valid and effective and the purchase money shall be paid to the Company whose receipt shall be a good discharge and shall be paid over by the Company to the late holder on his application. || (4) As from the time when any such certificate as aforesaid is signed up to the time when such proof as

aforesaid is given or such transfer is registered the share referred to in such certificate shall not confer on the holder or owner any right to vote. || (5) The prohibition in sub-paragraph (B) of paragraph (1) of this clause shall not apply where the holding by or in trust for or under the control of a foreigner or foreign corporation or a corporation under foreign control existed at the time when this clause came into operation and so long as such holding exists and paragraph (2) of this clause shall be qualified accordingly.

1A. By inserting in Clause 7 after the words „at such times" the words „and (if authorised by the Articles of Association of the Company for the time being or by special resolution) with such special rights or privileges". || 2. By adding at the end of Clause 10 the words „but this clause is without prejudice to Clause 2 hereof". || 3. By inserting immediately after Clause 23 a new clause as follows: — || 23*a*. Every transfer or any share must contain a declaration as follows namely: — || (*a*) Where the transfer is not a corporation a declaration by the transferee (1) that he is a natural born British subject and has never taken the oath of allegiance to any foreign sovereign or state or has otherwise become a citizen or subject of any foreign state or (2) that he is a person naturalised by or in pursuance of an Act of Parliament of the United Kingdom or by or in pursuance of an Act or ordinance of the proper legislative authority in a British possession and has taken the oath of allegiance to His Majesty and is a British subject and in either case that there is not any arrangement under which he will hold the said shares or any of them in trust for or in any way under the control of any foreigner or foreign corporation or any corporation under foreign control in contravention of the provisions of Clause 2 hereof or || (*b*) Where the transfer is to a corporation a declaration by some principal officer of such corporation duly authorised by such corporation to make the same that such corporation is not a foreign corporation or a corporation under foreign control within the meaning of Clause 2 hereof and that to the best of his knowledge there is no arrangement under which the tsansferee is to hold such shares or any of them in trust for or in any way under the control of any foreigner or foreign corporation or any corporation under foreign control within the meaning of Clause 2 hereof. || And where the Directors think fit they may before passing any such transfer require such further evidence in support of any such declaration whether by statutory declaration or otherwise as they think fit.

4. By inserting immediately after Clause 30 a new clause as follows: — || 30*a*. Before registering any person as a member under either of the two last preceding Clauses hereof the Directors shall require the person proposed to be registered to provide a declaration as follows: — || (A) Where the person to be registered is not a corporation a declaration by such person to the effect set forth in paragraph (*a*) of Clause 23*a* hereof. || (B) Where such a person is a corporation a declaration in writing by some principal officer of such corporation duly authorised by such corporation to make the same to the effect set forth in paragraph (*b*) of Clause 23*a* hereof. || And where the Directors think fit they may before registering require such further evidence in support of any such declaration whether by statutory declaration or otherwise as they think fit. || 5. By adding at the end of Clause 24 the words „and in the case of shares whether fully paid up or not may refuse to register a transfer where the Directors have reasonable ground to believe that there will in the result be a breach of sub-paragraph (B) of paragraph (1) of Clause 2 hereof". || 6. By cancelling Clauses 31 and 32. || 7. By adding the words „by any member entitled to demand a poll or by the Chairman or" after the words „If at any meeting a poll be demanded" in Clause 61. || 8. By substituting for Clause 62 a new clause as follows: — || 62. Any Poll demanded on the election of a Chairman of a Meeting or on any question of adjournment shall be taken at the Meeting and without adjournment. || 8A. By adding at the end of Clause 63 the words „and in the case of any share issued upon special conditions suchadditional votes as may be prescribed by the conditions of issue". || 9. By adding at the end of Clause 79 a new clause as follows: — || (4) If he is or becomes at any time disqualified under sub-paragraph (A) of paragraph (1) of Clause 2 hereof. || 10. By substituting in Clause 83 for the words „the Company's property" the words following namely „the assets or undertaking of the Company" and by cancelling the whole of the proviso to Clause 83. || 11. By cancelling the whole of Clause 86 and substituting therefor a new clause, as follows: — || 86. Without prejudice to the general powers conferred on the Directors by Clause 82 hereof they may at any time, and for such considerations as they think expedient, enter into any agreement with His Majesty's Government or any department thereof in regard to the carrying of mails the building of vessels the placing of all or any of the vessels of the Company at the disposal of His Majesty's Government or any department thereof whether by sale or hire or otherwise the working and management of the Company's undertaking the preservation of the Company's vessels and undertaking and shares under British

control and in regard to any other matters whether of a like or different character which it may seem expedient to empody in any such agreement and may as a term of any such agreement issue to any nominee or nominees of His Majesty's Government a share or shares of the Company carrying such voting power either generally or in respect of particular matters as the Directors shall think fit and the Directors shall have full power from time to time to assent to any modification of such agreement. || 12. By adding at the end of Clause 88 the words „or by some other person appointed by the Directors". || 13. By substituting the words „on the day following that on which it is posted" for the last fourteen words of Clause 117.

The Third Schedule.

Terms and Conditions upon which the Vessels of the Company are to be held at the disposal of His Majesty's Government during the Term of this Agreement.

His Majesty's Government shall have the right of purchasing any vessel for the time being the property to the Company upon the terms and conditions following: —

1. The price shall be a sum equal to the value of the vessel purchased as on the date upon which the Admiralty shall give notice in writing to the Company of their intention to purchase plus a sum equal to 10 per cent. on such value by way of bonus for loss or compulsory sale. || 2. The value of the vessel purchased shall in the case of the vessels particularised in the First Schedule hereto be the respective values set opposite to their names respectively in such Schedule and in the case of all other vessels the cost price thereof to the Company as proved to the reasonable satisfaction of the Admiralty less in all cases a sum by way of depreciation calculated up to the date upon which the Admiralty shall give notice to the Company of its intention to purchase at the rate of 6 per cent. per annum on such value as from the 29th day of September 1902 in the case of the vessels particularised in the First Schedule and as from the date of the commencement of the first voyage in the case of all other vessels. For the purpose of calculating such depreciation the percentage of 6 per cent. shall be reckoned on the value of the vessel at the commencement of each year after deduction of all sums previously allowed thereon on account of depreciation Provided that if after the date of this Agreement it shall be proved to the reasonable

satisfaction of the Admiralty that the Company has expended money on capital account in providing any of its vessels with new boilers or machinery the amount so expended less the depreciated value of the old boilers and machinery replaced at the date of such expenditure shall for the purposes of ascertaining the value of such vessel be added to the value of the said vessels ascertained as aforesaid at the time when such money was expended on capital account as aforesaid and all further deductions on account of depreciation shall thereafter be calculated in manner aforesaid on the value as so ascertained. || 3. The sale shall include the full equipment of the vessel but save as hereinafter provided shall not include the plated ware cutlery crystal earthenware blankets counterpanes bed and table linen and consumable stores of the vessel all of which the Company shall be entitled to remove from the vessel with the exception of such quantity of such articles (other than consumable stores) as may be reasonable necessary for the number of officers and warrant officers that would form part of the vessel's complement if used as an armed cruiser and such quantity of such articles shall be considered part of the equipment so purchased by the Admiralty. || 4. The purchase shall be completed and the price paid within 30 days from the date upon which the Admiralty shall give notice in writing to the Company of their intention to purchase Provided that in the event of the Admiralty purchasing either of the vessels referred to in Clause 3 of this Agreement or any vessel substituted therefor and not requesting the Company to build a new vessel similar to the vessel so purchased the purchase price shall be payable at the option of the Admiralty either in cash or partly in cash and partly by the transfer at par to the nominees of the Company of debenture stock of the Company but so that in the event of the Company deciding to build or purchase a single vessel (not being a vessel built under the proviso in Clause 5 (6) of this Agreement) in substitution for the vessel so purchased there shall be paid to the Company in cash — || (*a*) Where the cost of such single vessel does not equal the amount of the purchase price so much only of the purchase price as is equal to the cost of such vessel or || (*b*) Where the cost of such single vessel is equal to or exceeds the amount of the purchase price then the whole of such purchase price. || His Majesty's Government shall have the right of hiring any vessel for the time being the property of the Company upon the terms and conditions following: —

1. The rate of hire shall be calculated on the speed of the vessel in accordance with the following table where applicable: —

Speed of Vessel per Hour	Rate per Ton Gross Register per Month			
	In the event of the Company not having to Provide and Pay the Officers and Crew		In the event of the Company having to Provide and Pay the Officers and Crew	
	For the First Four Months of each Period of Hire	For the subsequent Period of Hire	For the first Four Months of each Period of Hire	For the subsequent Period of Hire
	s. *d.*	*s.* *d.*	*s.* *d.*	*s.* *d.*
Above 22 knots	25 0	25 0	30 0	30 0
Of from 20 to 22 knots inclusive	20 0	20 0	24 0	24 0
Of from 17 up to 20 knots	20 0	17 6	24 0	21 6
Under 17 knots and above 14 knots	17 6	15 0	20 0	17 6

Where the said table is not applicable by reason of the speed of any vessel not exceeding 14 knots an hour the rate of hire shall be such as may be agreed between the Admiralty and the Company or in default of agreement settled by a single arbitrator under the Arbitration Act 1889. || 2. The Company shall not be called on to provide officers and crews in war time but will if required do all they can to assist the Admiralty in manning the vessels hired for war service. || 3. In time of war or when the Admiralty provide and pay the officers and crew all risks in respect of loss or damage and expense of ship and stores and of claims (if any) arising in connection with the use of the vessel by the Admiralty shall be borne by the Admiralty from the date on which the vessel shall after notice of hire be ready for use by the Admiralty. || 4. In the event of the Admiralty hiring the said vessels or any of them for use as armed cruisers in time of peace the Company will if requested by the Admiralty so to do permit the officers and crew of any vessel to remain on board during the period of hire. In the event of the Admiralty desiring to secure the services of some only of the officers and men of a vessel so hired the Company will permit such officers and men to remain on board during the period of hire and the Admiralty will in addition to paying the rate of hire provided where the Company do not provide and pay the officers and crew reimburse to the Company the pay given by the Company to such officers and men during the period of hire. || 5. When the Admiralty take up on hire any vessel for employment as an armed cruiser in time of peace and the Company provide and pay the officers and crew all risks in respect of loss or damage and

expenses of ship and stores shall be borne by the Company if such loss or damage or expenses be caused by or recult from the act or default of the officers and crew provided and paid by the Company or any of them but if otherwise caused they shall be borne by the Admiralty. ‖ 6. The Company shall be allowed seven days at the stipulated rate of hire for every vessel hired under this Agreement at the commencement of each period of hire for taking down cabin fittings not required by the Admiralty and ten days at the same rate at the termination of the service for replacing these fittings The work of dismounting dismantling and reinstating shall be performed by the Company at the expense of the Admiralty. If the Company shall neglect or refuse to perform the same then the work may be done by the Admiralty. ‖ 7. The Admiralty shall at their own cost have the right to alter or remove any or all of the fittings or arrangements on board a vessel hired by them and to erect new fittings on such vessel Provided that such vessel and her outfit and machinery shall be given up to the Company in the same condition as they were in when taken by the Admiralty ordinary wear and tear and loss or damage or expenses which under the conditions in this schedule contained are to be borne by the Company alone excepted. ‖ 8. The hire of each vessel shall be paid monthly in advance that is to say immediately on the Admiralty taking over a vessel on hire the Company shall be entitled to receive a bill for one month's hire according to the rates for the tonnage and speed hereinbefore specified provided the vessel so hired be then in the condition in which the Company have agreed to keep her and if such vessel is not in such condition then the Company shall be entitled to such bill as soon as such vessel is put into such condition which shall be done by the Admiralty at the expense of the Company. At the commencement of each month after such first payment during the continuance of such vessel in the service of the Admiralty the Company shall be entitled to receive a further bill for one month's hire. All such payments as aforesaid shall be made in England by bills payable at sight by His Majesty's Paymaster General. Provided that there may be deducted from any hire payable under this clause the amount of any loss damage or expenses payable by the Company under Clause 5 of these Conditions of Hiring. ‖ 9. If at any time or times it shall be made to appear to the Admiralty that any delay has been caused or accrued by or in consequence of breach of orders or neglect of duty or default by or on the part of the Company or by or on the part of any servants under its control or if the vessel so hired has become unfit for the purposes of the Admiralty from any defect de-

ficiency or breach of orders or from any cause whatsoever which the Company or their servants could by the performance of their proper duty under this Agreement have avoided then and in every such case it shall be lawful for the Admiralty to retain in arrear the said pay payable in respect of the then next succeeding month and to put the said vessel out of pay or to make such abatement by way of mulct out of the hire of the said vessel as they shall adjudge fit and reasonable or by themselves or by any officer authorised by them dismiss from the said vessel the master or any of the ship's company found by them or by the authorised officer to be in default and at the cost and charge of the Company (if such person shall be a servant of the Company) to appoint others in place of those so in default. || 10. The Admiralty shall be entitled to terminate the hire of any vessel subject to this Agreement by notice in writing to the Company on the actual or constructive loss or capture of or by purchasing such vessel as hereinbefore provided or by bringing such vessel into the Port of Liverpool and giving subsequent notice in writing to the Company and the period of hire shall subject to the provisions of Clause 6 of these Conditions of Hiring be held to terminate from the date of the delivery of such notice but in case the Admiralty shall have provided the officers and crew of such vessel the Admiralty shall not except in the case of actual or constructive loss or capture be entitled to terminate the hire of such vessel until she is in good seagoing order and condition and fit for employment in the Company's business ordinary wear and tear excepted. || 11. In the event of the actual or constructive loss or capture of a vessel whilst on hire the Admiralty shall pay to the Company in respect of such vessel a sum equal to the price that would have been payable under the provisions contained in this Schedule if the Admiralty had exercised its right of purchase by notice given on the day of loss or capture unless such loss or capture be due to such causes or be occasioned at such times as under the provisions contained in this Schedule to impose the liability therefor on the Company. Unterschriften.

Nr. 13207. **VEREINIGTE STAATEN und PANAMA.** — Vertrag über den Bau eines Isthmuskanals zwischen dem Atlantischen und Stillen Ozean.

Washington, 18. November 1903.

The United States of America and the Republic of Panama being desirous to insure the construction of a ship canal across the Isthmus

of Panama to connect the Atlantic and Pacific oceans, and the Congress of the United States of America having passed an act approved June 28, 1902, in furtherance of that object, by which the President of the United States is authorized to acquire within a reasonable time the control of the necessary territory of the Republic of Colombia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention and have accordingly appointed as their plenipotentiaries, — || The President of the United States of America, John Hay, Secretary of State, and || The Government of the Republic of Panama, Philippe Bunau-Varilla, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, thereunto specially empowered by said government, who after communicating with each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

Article I.

The United States guarantees and will maintain the independence of the Republic of Panama.

Article II.

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three marine miles from mean low water mark and extending to and across the Isthmus of Panama into the Pacific ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise. || The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described

and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamenco.

Article III.

The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

Article IV.

As rights subsidiary to the above grants the Republic of Panama grants in perpetuity to the United States the right to use the rivers, streams, lakes and other bodies of water within its limits for navigation, the supply of water or water-power or other purposes, so far as the use of said rivers, streams, lakes and bodies of water and the waters thereof may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal.

Article V.

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific ocean.

Article VI.

The grants herein contained shall in no manner invalidate the titles or rights of private land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any Article of this treaty, nor shall they interfere with the rights of way over the public roads passing through the said zone or over any of the said lands or waters unless said rights of way or private rights shall conflict with rights herein granted to the United States in which case the rights of the United States shall be superior. All damages caused to the owners of private lands or private property of any kind by reason of the grants contained in this treaty or by reason of the operations of the United States, its agents or employees, or by reason of the construction, maintenance, operation, sani-

tation and protection of the said Canal or of the works of sanitation and protection herein provided for, shall be appraised and settled by a joint Commission appointed by the Governments of the United States and the Republic of Panama, whose decisions as to such damages shall be final and whose awards as to such damages shall be paid solely by the United States. No part of the work on said Canal or the Panama railroad or on any auxiliary works relating thereto and authorized by the terms of this treaty shall be prevented, delayed or impeded by or pending such proceedings to ascertain such damages. The appraisal of said private lands and private property and the assessment of damages to them shall be based upon their value before the date of this convention.

Article VII.

The Republic of Panama grants to the United States within the limits of the cities of Panama and Colon and their adjacent harbors and within the territory adjacent thereto the right to acquire by purchase or by exercise of the right of eminent domain, any lands, buildings, water rights or other properties necessary and convenient for the construction, maintenance, operation and protection of the Canal and of any works of sanitation, such as the collection and disposition of sewage and the distribution of water in the said cities of Panama and Colon, which, in the discretion of the United States may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal and railroad. All such works of sanitation, collection and disposition of sewage and distribution of water in the cities of Panama and Colon shall be made at the expense of the United States, and the Government of the United States, its agents or nominees shall be authorized to impose and collect water rates and sewerage rates which shall be sufficient to provide for the payment of interest and the amortization of the principal of the cost of said works within a period of fifty years and upon the expiration of said term of fifty years the system of sewers and water works shall revert to and become the properties of the cities of Panama and Colon respectively, and the use of the water shall be free to the inhabitants of Panama and Colon, except to the extent that water rates may be necessary for the operation and maintenance of said system of sewers and water. || The Republic of Panama agrees that the cities of Panama and Colon shall comply in perpetuity with the sanitary ordinances whether of a preventive or curative character prescribed by the United States and in case the Government of Panama is unable or fails in its duty to enforce this compliance by the cities of Panama and Colon

with the sanitary ordinances of the United States the Republic of Panama grants to the United States the right and authority to enforce the same. || The same right and authority are granted to the United States for the maintenance of public order in the cities of Panama and Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment of the United States, able to maintain such order.

Article VIII.

The Republic of Panama grants to the United States all rights which it now has or hereafter may acquire to the property of the New Panama Canal Company and the Panama Railroad Company as a result of the transfer of sovereignty from the Republic of Colombia to the Republic of Panama over the Isthmus of Panama and authorizes the New Panama Canal Company to sell and transfer to the United States its rights, privileges, properties and concessions as well as the Panama Railroad and all the shares or part of the shares of that company; but the public lands situated outside of the zone described in Article II of this treaty now included in the concessions to both said enterprises and not required in the construction or operation of the Canal shall revert to the Republic of Panama except any property now owned by or in the possession of said companies within Panama or Colon or the ports or terminals thereof.

Article IX.

The United States agrees that the ports at either entrance of the Canal and the waters thereof, and the Republic of Panama agrees that the towns of Panama and Colon shall be free for all time so that there shall not be imposed or collected custom house tolls, tonnage, anchorage, lighthouse, wharf, pilot, or quarantine dues or any other charges or taxes of any kind upon any vessel using or passing through the Canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, operation, sanitation and protection of the main Canal, or auxiliary works, or upon the cargo, officers, crew, or passengers of any such vessels, except such tolls and charges as may be imposed by the United States for the use of the Canal and other works, and except tolls and charges imposed by the Republic of Panama upon merchandise destined to be introduced for the consumption of the rest of the Republic of Panama, and upon vessels touching at the ports of Colon and Panamaand which do not cross the Canal. || The Government of the Republic of Panama shall have the right to establish in such ports and in the towns

of Panama and Colon such houses and guards as it may deem necessary to collect duties on importations destined to other portions of Panama and to prevent contraband trade. The United States shall have the right to make use of the towns and harbors of Panama and Colon as places of anchorage, and for making repairs, for loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the Canal and for other works pertaining to the Canal.

Article X.

The Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the Canal, the railways and auxiliary works, tugs and other vessels employed in the service of the Canal, store houses, work shops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property, and effects appertaining to the Canal or railroad and auxiliary works, or their officers or employees, situated within the cities of Panama and Colon, and that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the Canal and railroad and auxiliary works.

Article XI.

The United States agrees that the official dispatches of the Government of the Republic of Panama shall be transmitted over any telegraph and telephone lines established for canal purposes and used for public and private business at rates not higher than those required from officials in the service of the United States.

Article XII.

The Government of the Republic of Panama shall permit the immigration and free access to the lands and workshops of the Canal and its auxiliary works of all employees and workmen of whatever nationality under contract to work upon or seeking employment upon or in any wise connected with the said Canal and its auxiliary works, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Panama.

Article XIII.

The United States may import at any time into the said zone and auxiliary lands, free of custom duties, imposts, taxes, or other charges, and without any restrictions, any and all vessels, dredges, engines, cars,

machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, operation, sanitation and protection of the Canal and auxiliary works, and all provisions, medicines, clothing, supplies and other things necessary and convenient for the officers, employees, workmen and laborers in the service and employ of the United States and for their families. If any such articles are disposed of for use outside of the zone and auxiliary lands granted to the United States and within the territory of the Republic, they shall be subject to the same import or other duties as like articles imported under the laws of the Republic of Panama.

Article XIV.

As the price or compensation for the rights, powers and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of ten million dollars ($ 10 000 000) in gold coin of the United States on the exchange of the ratification of this convention and also an annual payment during the life of this convention of two hundred and fifty thousand dollars ($ 250 000) in like gold coin, beginning nine years after the date aforesaid. || The provisions of this Article shall be in addition to all other benefits assured to the Republic of Panama under this convention. || But no delay or difference of opinion under this Article or any otherprovisions of this treaty shall affect or interrupt the full operation and effect of this convention in all other respects.

Article XV.

The joint commission referred to in Article VI shall be established as follows:

The President of the United States shall nominate two persons and the President of the Republic of Panama shall nominate two persons and they shall proceed to a decision; but in case of disagreement of the Commission (by reason of their being equally divided in conclusion) an umpire shall be appointed by the two Governments who shall render the decision. In the event of the death, absence, or incapacity of a Commissioner or Umpire, or of his omitting, declining or ceasing to act, his place shall be filled by the appointment of another person in the manner above indicated. All decisions by a majority of the Commission or by the umpire shall be final.

Article XVI.

The two Governments shall make adequate provision by future agreement for the pursuit, capture, imprisonment, detention and delivery within said zone and auxiliary lands to the authorities of the Republic of Panama of persons charged with the commitment of crimes, felonies or misdemeanors without said zone and for the pursuit, capture, imprisonment, detention and delivery without said zone to the authorities of the United States of persons charged with the commitment of crimes, felonies and misdemeanors within said zone and auxiliary lands.

Article XVII.

The Republic of Panama grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the Canal enterprise, and for all vessels passing or bound to pass through the Canal which may be in distress and be driven to seek refuge in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of the Republic of Panama.

Article XVIII.

The Canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by Section I of Article three of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

Article XIX.

The Government of the Republic of Panama shall have the right to transport over the Canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind. The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war and supplies.

Article XX.

If by virtue of any existing treaty in relation to the territory of the Isthmus of Panama, whereof the obligations shall descend or be assumed by the Republic of Panama, there may be any privilege or concession in favor of the Government or the citizens and subjects of a third power relative to an interoceanic means of communication which in any

of its terms may be incompatible with the terms of the present convention, the Republic of Panama agrees to cancel or modify such treaty in due from, for which purpose it shall give to the said third power the requisite notification within the term of four months from the date of the present convention, and in case the existing treaty contains no clause permitting its modifications or annulment, the Republic of Panama agrees to procure its modification or annulment in such form that there shall not exist any conflict with the stipulations of the present convention.

Article XXI.

The rights and privileges granted by the Republic of Panama to the United States in the preceding Articles are understood to be free of all anterior debts, liens, trusts, or liabilities, or concessions or privileges to other Governments, corporations, syndicates or individuals, and consequently, if there should arise any claims on account of the present concessions and privileges or otherwise, the claimants shall resort to the Government of the Republic of Panama and not to the United States for any indemnity or compromise which may be required.

Article XXII.

The Republic of Panama ronounces and grants to the United States the participation to which it might be entitled in the future earnings of the Canal under Article XV of the concessionary contract with Lucien N. B. Wyse now owned by the New Panama Canal Company and any and all other rights or claims of a pecuniary nature arising under or relating to said concession, or arising under or relating to the concessions to the Panama Railroad Company or any extension or modification thereof; and it likewise renounces, confirms and grants to the United States, now and hereafter, all the rights and property reserved in the said concessions which otherwise would belong to Panama at or before the expiration of the terms of ninety-nine years of the concessions granted to or held by the above mentioned party and companies, and all right, title and interest which it now has or may hereafter have, in and to the lands, canal, works, property and rights held by the said companies under said concessions or otherwise, and acquired or to be acquired by the United States from or through the New Panama Canal Company, including any property and rights which might or may in the future either by lapse of time, forfeiture or otherwise, revert to the Republic of Panama under any contracts or concessions, with said Wyse, the Universal Panama Canal Company, the Panama Railroad Company and the New Panama

Canal Company. || The aforesaid rights and property shall be and are free and released from any present or reversionary interests in or claims of Panama and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Company, shall be absolute, so far as concerns the Republic of Panama, excepting always the rights of the Republic specifically secured under this treaty.

Article XXIII.

If it should become necessary at any time to employ armed forces for the safety or protection of the Canal, or of the ships that make use of the same, or the railways and auxiliary works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces or to establish fortifications for these purposes.

Article XXIV.

No change either in the Government or in the laws and treaties of the Republic of Panama shall, without the consent of the United States, affect any right of the United States under the present convention, or under any treaty stipulation between the two countries that now exists or may hereafter exist touching to subject matter of this convention. || If the Republic of Panama shall hereafter enter as a constituent into any other Government or into any union or confederation of states, so as to merge her sovereignty or independence in such Government, union or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

Article XXV.

For the better performance of the engagements of this convention and to the end of the efficient protection of the Canal and the preservation of its neutrality, the Government of the Republic of Panama will sell or lease to the United States lands adequate and necessary for naval or coaling stations on the Pacific coat and on the western Caribbean coast of the Republic at certain points to be agreed upon with the President of the United States.

Article XXVI.

This convention when signed by the Plenipotentiaries of the Contracting Parties shall be ratified by the respective Governments and the ratifications shall be exchanged at Washington at the earliest date possible.

In faith whereof the respective Plenipotentiaries have signed the present convention in duplicate and have hereunto affixed their respective seals.

Done at the City of Washington the 18th day of November in the year of our Lord nineteen hundred and three.

[seal] John Hay
[seal] P. Bunau Varilla.

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the twenty-sixth day of February, one thousand nine hundred and four;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this twenty-sixth day of February, in the year of our Lord one thousand nine hundred and four, and of the Independence of the United States the one hundred and twenty-eighth.

[seal] Theodore Roosevelt

By the President:
John Hay, Secretary of State.

Nr. 13208. COSTA RICA und NIKARAGUA. — Grenzvertrag.

27. März 1896.

Habiendo sido aceptada la mediación del Gobierno de El Salvador por los Excelentísimos señores Presidentes de Costa Rica y Nicaragua para arreglar el trazo de la línea divisoria de las dos Repúblicas, han nombrado, respectivamente, Enviados Extraordinarios y Ministros Plenipotenciarios, á sus Excelencias los señores Licenciados don Leonidas Pacheco y don Manuel C. Matus, quienes, después de varias conferencias tenidas en presencia del señor Ministro de Relaciones Exteriores, Doctor don Jacinto Castellanos, autorizado especialmente para representar al Gobierno de El Salvador, encontrándose en buena y debida forma sus Plenos Poderes, y con asistencia del Excelentísimo señor Presidente de la República, General don Rafael A. Gutiérrez, quien ha tenido la deferencia

de concurrir, para dar mayor solemnidad al acto, han celebrado el siguiente Convenio.

Artículo I.

Los Gobiernos contratantes se obligan á nombrar cada uns una comisión compuesta de dos ingenieros ó agrimensores, con el objeto de trazar y amojonar debidamente la línea divisoria entre las Repúblicas de Costa Rica y Nicaragua, según lo establece el Tratado de 15 de abril de 1858 y el Laudo arbitral del señor Presidente los de Estados Unidos de Norte América, Mr. Grover Cleveland.

Artículo II.

Las Comisiones que por el artículo anterior se crean, serán integradas por un ingeniero, cuyo nombramiento será solicitado por ambas Partes del señor Presidente de los Estados Unidos de América y cuyas funciones se concretan á lo siguiente: cuando en la práctica de las operaciones estuvieren en desacuerdo las Comisiones de Costa Rica y Nicaragua, se someterá el punto ó puntos discutidos al juicio del Ingeniero del señor Presidente de los Estados Unidos de América. El Ingeniero tendrá amplias facultades para decidir cualquier clase de dificultades que surjan, y conforme á su fallo se ejecutarán ineludiblemente las operaciones de que se trate.

Artículo III.

Dentro de los tres meses siguientes al canje de la presente Convención, ya debidamente ratificada por los respectivos Congresos, los Representantes en Wáshington, de ambos Gobiernos contratantes, procederán, de común acuerdo, á solicitar del señor Presidente de los Estados Unidos de Norte América que acceda á nombrar el Ingeniero á que antes se hizo referencia y que verifique su elección. Si por falta de Representante en Wáshington de cualquiera de los dos Gobiernos ó por cualquiera otro motivo que sea, dejare de hacerse la solictud conjuntamente, en el plazo enunciado, una vez vencido éste, podrá cualquiera de los Representantes de Costa Rica ó Nicaragua en Wáshington, hacer por separado tal solicitud, la cual surtirá todos sus efectos, como si hubiese sido presentada por ambas Partes.

Artículo IV.

Verificado el nombramiento del Ingeniero norteamericano, y dentro de los tres meses siguientes á la fecha de ese nombramiento, se procederá á la demarcación y amojonamiento de la línea fronteriza, lo cual

deberá estar terminado dentro de los veinte meses siguientes á la fecha de inauguración de los trabajos. Las Comisiones de las Partes contratantes se reunirán en San Juan del Norte, dentro de los términos fijados al efecto, é iniciarán sus trabajos en el extremo de la línea divisoria que, según el Tratado y Laudo antes referidos, parte de la costa atlántica.

Artículo V.

Las Partes contratantes convienen en que si, por cualquier motivo, el día de iniciar los trabajos faltare en el lugar designado alguna de las Comisiones de las Repúblicas de Costa Rica ó Nicaragua, se dará principio á los trabajos por la Comisión de la otra República que se halle presente, con la concurrencia del señor Ingeniero del Gobierno norteamericano, y será válido y definitivo lo que en tal forma se haga y sin lugar á reclamo por parte de la República que haya dejado de enviar sus Comisionados. Del mismo modo se procederá, si se ausentaren algunos de los Comisionados ó todos, de cualquiera de las Repúblicas contratantes, una vez iniciadas las obras ó si rehuyeren la ejecución de ellas en la forma en que señalan el Laudo y Tratado aquí referidos ó con arreglo á la decisión del Ingeniero del señor Presidente de los Estados Unidos.

Artículo VI.

Las Partes contratantes convienen en que el plazo fijado para la conclusión del amojonamiento no es perentorio, y por tanto será válido lo que después de su vencimiento se hiciere, bien por haber sido aquel plazo insuficiente para la práctica de todas las operaciones, ó bien por haber convenido los Comisionados de Costa Rica y Nicaragua entre sí y de acuerdo con el Ingeniero norteamericano, en suspender temporalmente las obras y no bastar para concluirlas el plazo que quede del fijado.

Artículo VII.

Caso de suspensión temporal de los trabajos de amojonamiento, se tendrá lo hecho hasta entonces por definitivo y concluído, y por fijados materialmente los límites en la parte respectiva, aun cuando por circunstancias inesperadas é insuperables dicha suspensión continuase indefinidamente.

Artículo VIII.

El libro de actas de las operaciones, que se llevará por triplicado y que firmarán y sellarán debidamente los Comisionados, será, sin necesidad de aprobación ni de ninguna otra formalidad por parte de las Repúblicas signatarias, el título de demarcación definitiva de sus límites.

Artículo IX.

Las actas á que se refiere el artículo anterior se extenderán en la siguiente forma: se consignará todos los días, al concluir las obras, minuciosa y detalladamente, todo lo hecho, expresándose el punto de partida de las operaciones del día, la clase de mojones construídos ó adoptados, la distancia á que queden unos de otros, el arrumbamiento de la línea que determina el común lindero, etc. Caso de que hubiere discusión entre las Comisiones de Costa Rica y Nicaragua respecto de algún punto, se consignará en el acta respectiva la cuestión ó cuestiones debatidas y la resolución del Ingeniero norteamericano. Las actas se llevarán por triplicado; la Comisión de Costa Rica conservará uno de los ejemplares, otro la de Nicaragua, y el tercero, el Ingeniero norteamericano para depositarlo, una vez concluídas las operaciones en el Departamento de Estado de Wáshington.

Artículo X.

Los gastos que se ocasionen con motivo del envío y permanencia del señor Ingeniero norteamericano, así como los sueldos que le correspondan durante todo el tiempo que dure en el ejercicio de sus funciones, serán pagados, por mitades, por las dos Repúblicas signatarias.

Artículo XI.

Las Partes contratantes se comprometen á recabar las ratificaciones, de esta Convención de sus respectivos Congresos, dentro de seis meses, á contar de esta fecha, aunque para ello deba hacerse convocatoria extraordinaria de aquellos Altos Cuerpos y el canje subsiguiente se verificará dentro del mes tiguiente á la fecha de la última de las ratificaciones indicadas, en San José de Costa Rica ó en Managua.

Artículo XII.

El trascurso de los términos de que antes se ha hablado, sin la ejecución de los actos para los cuales han sido estipulados, no produce la caducidad de la presente Convención, y se tratará de llenar comisión por parte de la República á que corresponda verificarlo, dentro del más breve término posible.

En fe de lo cual firman y sellan por duplicado la presente Convención, en la ciudad de San Salvador, á los veintisiete días del mes de marzo de mil ochocientos noventary seis (L. S.) (f) R. A. Gutiérrez
(L. S.) (f) Jacinto Castellanos
(L. S.) (f) Leonidas Pacheco
(L. S.) (f) M. C. Matus.

Nr. 13209. SPANIEN und PARAGUAY. — Vertrag über literarisches und künstlerisches Eigentum.

Proklamiert 28. Mai 1900.

Artículo 1.° Los Estados signatarios se comprometen á reconocer y proteger los derechos de la propiedad literaria y artística, en conformidad con las estipulaciones del presente Tratado.

Art. 2.° El autor de toda obra literaria ó artística y sus sucesores, gozarán en los Estados signatarios de los derechos que les acuerde la ley del Estado en que tuvo lugar su primera pulicación ó producción.

Art. 3.° El derecho de propiedad de una obra literaria ó artística comprende para su autor la facultad de disponer de ella, de publicarla, de enajenarla, de traducirla ó de autorizar su traducción y de reproducirla en cualquiera forms.

Art. 4.° Ningún Estado estará obligado á reconocer el derecho de propiedad literaria ó artística, por mayor tiempo del que rija para los autores que en él obtengan ese derecho. Este tiempo podrá limitarse al señalado en el país de origen, si fuere menor.

Art. 5.° En la expresión obras literarias y artísticas se comprende los libros, folletos y cualesquiera otros escritos; las obras dramáticas ó dramático-musicales, las coreográficas, las composiciones musicales con ó sin palabras; los dibujos, las pinturas, las esculturas, los grabados; las obras fotográficas, las litográficas, las cartas geográficas, los planos, croquis y trabajos plásticos relativos á geografia, á topografía, arquitectura ó á ciencias en general; y, en fin, se comprende toda producción del dominio literario ó artístico que pueda publicarse por cualquier medio de impresión ó de reproducción.

Art. 6.° Los traductores de obras acerca de las cuales no exista ó se haya extinguido el derecho de propiedad garantido, gozarán respecto de sus traducciones de los derechos declarados en el art. 3.°; mas no podrán impedir la publicación de otras traducciones de la misma obra.

Art. 7.° Los articulos de periódicos podrán reproducirse, citándose la publicación de donde se toman. Se exceptúan los artículos que versen sobre Ciencias y Artes, y cuya reproducción se hubiera prohibido expresamente por sus autores.

Art. 8.° Pueden publicarse en la prensa periódica, sin necesidad de autorización alguna, los discursos pronunciados ó leídos en las Asambleas deliberantes, ante los Tribunales de justicia ó en las reuniones públicas.

Art. 9.° Se consideran reproducciones ilícitas las apropiacones indirectas, no autorizadas, de una obra literaria ó artística y que se designen

con nombres diversos, como adoptaciones, arreglos, etc., etc., y que no son más que reproducción de aquélla sin presentar el carácter de obra original.

Art. 10. Los derechos de autor se reconocerán, salvo prueba en contrario, á favor de las personas cuyos nombres ó seudónimos estén indicados en la obra literaria ó artística. Si los autores quisieren reservar sus nombres, deberán expresar los editores que á ellos corresponden los derechos de autor.

Art. 11. Las responsabilidades en que incurran los que usurpen el derecho de propiedad literaria ó artística, se ventilarán ante los Tribunales y se regirán por las leyes del pais en que el fraude se haya cometido.

Art. 12. El reconocimiento del derecho de propiedad de las obras literarias ó artísticas no priva á los Estados signatarios de la facultad de prohibir, con arreglo á sus leyes, que se reproduzcan, publiquen, circulen, representen ó expongan aquellas obras que se consideren contrarias á la moral ó á las buenas costumbres.

Art. 13. No es indispensable para la vigencia de este Tratado su ratificación simultánea por todas las Naciones signatarias. La que lo apruebe lo comunicará á los Gobiernos de las Repúblicas Argentina y Oriental del Uruguay, para que lo hagan saber á las demás Naciones contratantes. Este procedimiento hará las veces de canje.

Art. 14. Hecho el canje en la forma del artículo anterior, este Tratado quedará en vigor desde ese acto por tiempo indefinido.

Art. 15. Si alguna de las Naciones signatarias creyese conveniente desligarse del Tratado ó introducir modificaciones en él, lo avisará á las demás; pero no quedará desligada sino dos años después de la denuncia, término en que se procurará llegar á un nuevo acuerdo.

Art. 16. El art. 13 es extensivo á las Naciones que no habiendo concurrido á este Congreso quisieran adherirse al presente Tratado.

Nr. 13210. VERTRAGSSTAATEN. — Vertrag über literarisches und künstlerisches Eigentum.

15. März 1902.

Sus Excelencias el Presidente de la Republica Argentina, el de Bolivia, el de Colombia, el de Costa Rica, el de Chile, el de la República Dominicana, el del Ecuador, el del Salvador, el de los Estados Unidos de América, el de Guatemala, el de Haití, el de Honduras, el de los Estados Unidos Mexicanos, el de Nicaragua, el del Paraguay, el del Perú y el del Uruguay. || Deseando que sus países respectivos fueran representados en la

Segunda Conferencia Internacional Americana, enviaron á ella debidamente autorizados para aprobar las recomendaciones, resoluciones, convenciones y tratados que juzgaren útiles á los intereses de la América, á los siguientes Señores Delegados: || *Por la Argentina.* — Excmo. Sr. Dr. D. Antonio Bermejo, Excmo. Sr. D. Martín García Mérou, Excmo. Sr. Dr. D. Lorenzo Anadón, || *Por Bolivia.* — Excmo. Sr. Dr. D. Fernando E. Guachalla. || *Por Colombia.* — Excmo. Sr. Dr. D. Carlos Martínez Silva, Excmo. Sr. General Don Rafael Reyes. || *Por Costa Rica.* — Excmo. Sr. D. Joaquín Bernardo Calvo. || *Por Chile.* — Excmo. Sr. D. Alberto Blest Gana, Excmo. Sr. D. Emilio Bello Codecido, Excmo. Sr. D. Joaquín Walker Martínez, Excmo Sr. D. Augusto Matte. || *Por la República Dominicana.* — Excmo. Sr. D. Federico Henríquez y Carvajal, Excmo. Sr. D. Luis Felipe Carbo, Excmo. Sr. D. Quintín Gutiérrez. || *Por Ecuador.* — Excmo. Sr. D. Luis Felipe Carbo. || *Por El Salvador.* — Excmo. Sr. Dr. D. Francisco A. Reyes, Excmo. Sr. Dr. D. Baltasar Estupinián. || *Por los Estados Unidos de América.* — Excmo. Sr. Henry G. Davis, Excmo. Sr. William I. Buchanan, Excmo. Sr. Charles M. Pepper, Excmo. Sr. Volney W. Foster, Excmo. Sr. John Barrett. || *Por Guatemala.* — Excmo. Sr. Dr. D. Antonio Lazo Arriaga, Excmo. Sr. Coronel D. Francisco Orla. || *Pòr Haití.* — Excmo. Sr. Dr. D. J. N. Léger. || *Por Honduras.* — Excmo. Sr. Dr. D. José Leonard, Excmo. Sr. Dr. D. Fausto Dávila. || *Por México.* — Excmo. Sr. Lic. D. Genaro Raigosa, Excmo. Sr. Lic. D. Joaquín D. Casasús, Excmo. Sr. Lic. D. Pablo Macedo, Excmo. Sr. Lic. D. Emilio Pardo, Jr., Excmo. Sr. Lic. D. Alfredo Chavero, Excmo. Sr. Lic. D. José López-Portillo y Rojas, Excmo. Sr. Lic. D. Francisco L. de la Barra, Excmo. Sr. Lic. D. Manuel Sánchez Mármol, Excmo. Sr. Lic. D. Rosendo Pineda. || *Por Nicaragua.* — Excmo. Sr. D. Luis F. Corea, Excmo. Sr. Dr. D. Fausto Dávila. || *Por el Paraguay.* — Excmo. Sr. D. Cecilio Báez. || *Por el Perú.* — Excmo. Sr. Dr. D. Isaac Alzamora, Excmo. Sr. Dr. D. Alberto Elmore, Excmo. Sr. Dr. D. Manuel Alvarez Calderón. || *Por el Uruguay.* — Excmo. Sr. Dr. D. Juan Cuestas. || Quienes después de haberse comunicado sus plenos poderes y encontrádolos en buena y debida forma, con excepción de los exhibidos por los Representantes de SS. EE. el Presidente de los Estados Unidos de América, el de Nicaragua y el del Paraguay, los cuales obran *ad referendum*, han convenido en celebrar una Convención para la protección de las obras literarias y artísticas, en los términos siguentes:

Art. 1.° Los Estados signatarios se constituyen en Unión para reconocer y proteger los derechos de propiedad literaria y artística, de conformidad con las estipulaciones de la presente Convención.

Art. 2.° En la expresión „obras literarias y artísticas", se comprenden los libros, escritos, folletos de todas clases, cualquiera que sea la materia de que traten y cualquiera que sea el número de sus páginas; las obras dramáticas ó dramático musicales; las coreografías, las composiciones musicales con ó sin palabras; los dibujos, las pinturas, las esculturas, los grabados; las obras fotográficas, las esferas astronómicas ó geográficas; los planos, croquis ó trabajos plásticos relativos á geografía ó geología, á topografía ó arquitectura, ó á cualquiera ciencia; y, en fin, queda comprendida toda producción del dominio literario y artístico que pueda publicarse por cualquier medio de impresión ó reproducción.

Art. 3.° El derecho de propiedad de una obra literaria ó artística comprende, para su autor ó causa-habientes, la facultad exclusiva de disponer de ella, de publicarla, de enajenarla, de traducirla ó de autorizar su traducción, y de reproducirla en cualquiera forma, ya total, ya parcialmente. || Los autores pertenecientes á uno de los países signatarios ó sus causa-habientes gozan en los otros países signatarios, (y por el tiempo determinado en el Art. 5.°, del derecho exclusivo de hacer ó autorizar la traducción de sus obras.

Art. 4.° Para obtener el reconocimiento del derecho de propiedad de una obra, es condición indispensable que el autor ó sus causa-habientes, ó su representante legítimo, dirijan al departamento oficial que cada Gobierno firmante designe, una solicitud pidiendo el reconocimiento de aquel derecho, acompañada de dosejemplares de su obra, que quedarán en el departamente referido. || Si el autor ó sus causa-habientes desearen que el derecho de propiedad les sea reconocido en otros de los países signatarios, acompañarán además á su solicitud tantos ejemplares de su obra, cuantos sean los países que designen. || El mencionado departamento oficial distribuirá entre dichos países los ejemplares referidos acompañados de una copia del certificado, á efecto de que sea en aquéllos reconocido el derecho de propiedad al autor. || Las omisiones en que el departamento pudiera incurrir á este respecto, no darán derecho al autor ó á sus causa-habientes, para entablar reclamaciones contra el Estado.

Art. 5.° Los autores que pertenezcan á uno de los países signatarios, ó sus causa-habientes, gozarán en los otros países los derechos que las leyes respectivas acuerden actualmente ó acordaren en lo sucesivo á los nacionales, sin que el goce de esos derechos pueda exceder del término de protección acordado en el país de origen. || Para las obras compuestas de varios volúmenes que no se publiquen juntamente, del mismo modo que para los boletines ó entregas de sociedades literarias ó científicas, ó de particulares, el plazo de propiedad comenzará á contarsel,

respecto de cada volumen, boletín ó entrega, desde la respectiva fecha de su publicación.

Art. 6.° Se considerará como país de origen de una obra, el de su primera publicación, ó si ésta ha tenido lugar simultáneamente en varios de los países signatarios, aquel cuya legislación fije el término de protección más corto.

Art. 7.° Las traducciones lícitas son protegidas como las obras originales. Los traductores de obras, acerca de los cuales no exista ó se hubiere extinguido el derecho de propiedad garantizado podrán obtener respecto de sus traducciones, los derechos de propiedad declarados en el art. 3.°; mas no podrán impedir la publicación de otras traducciones de la misma obra.

Art. 8.° Los artículos de periódicos podrán reproducirse salvos los plazos que designen las leyes locales, citándose la publicación de donde se tomen y expresándose el nombre del autor, si apareciere en ella.

Art. 9.° El derecho de propiedad se reconocerá, salva prueba en contrario, á favor de las personas cuyos nombres ó pseudónimos reconocidos estén indicados en la obra literaria ó artística ó en la solicitud á que se refiere el Art. 4.° de esta Convención.

Art. 10. Pueden publicarse en la prensa periódica, sin necesidad de autorización alguna, los discursos pronunciados ó leídos en asambleas deliberantes, ante los tribunales de justicia ó en las reuniones públicas.

Art. 11. La reproducción de fragmentos de obras literarias ó artísticas en publicaciones desinadas á la enseñanza ó para crestomatías, no confiere ningún derecho de propiedad y puede, por consiguiente, ser hecha libremente en todos los países signatarios.

Art. 12. Se considerarán reproducciones ilícitas las apropiaciones indirectas no autorizadas, de una obra literaria ó artística y que no presenten el carácter de obra original. || Será también considerada ilícita la reproducción, en cualquiera forma, de una obra integra ó de la mayor parte de ella, acompañada de notas ó comentarios, á pretexto de crítica literaria, de ampliación ó complemento de la obra original.

Art. 13. Toda obra falsificada podrá ser secuestrada en las países signatarios en que la obra tenga derecho á la protección legal, sin perjuicio de originar las indemnizaciones ó de las penas en que incurran los falsificadores según las leyes del país en que el fraude se haya cometido.

Art. 14. Cada uno de los Gobiernos de los países signatarios conservará la libertad de permitir, vigilar ó prohibir la circulación, representación y exposición de cualquiera obra ó producción, respecto de las cuales tuviere que ejercer ese derecho la autoridad competente.

Art. 15. La presente Convención comenzará á regir, entre los Estados signatarios que la ratifiquen, tres meses después de que comuniquen su ratificación al Gobierno Mexicano, y permanecerá en vigor entre todos ellos, hasta un año después de la fecha en que se denuncie por alguno. Esta denuncia será dirigida al Gobierno Mexicano, y no tendrá efecto sino respecto del país que la hayo hecho.

Art. 16. Los Gobiernos de los Estados signatarios declararán, al aprobar la presente Convención, si aceptan la adhesión de las naciones que no han tenido representación en la Segunda Conferencia Internacional Americana. || En fe de lo cual, los Plenípotenciarios y Delegados firman la presente Convención, y ponen en ella el sello de la Segunda Conferencia Internacional Americana. || Hecho en la ciudad de México, el día veintisiete de Enero de mil novecientos dos, en tres ejemplares, en castellano, inglés y francés, respectivamente, los cuales se depositarán en la Secretaría de Relaciones Exteriores del Gobierno de los Estados Unidos Mexicanos, á fin de que de ellos se saquen copias certificadas para enviarlas por la vía diplomática á cada uno de los Estados signatarios.

(Unterschriften.)

Es copia del original que ha sido depositado en el Ministerio de Relaciones Exteriores, de los Estados Unidos Mexicanos.

México, 15 de Marzo de 1902.

El Ministro de Relaciones Exteriores,
Ignacio Mariscal.

Nr. 13211. **BELGIEN und VERTRAGSSTAATEN.** — Beitritt Belgiens zu der Konvention zwischen südamerikanischen Staaten über künstlerisches und literarisches Eigentum vom 11. Januar 1889.

17. September 1903.

Le Gouvernement belge a adhéré au traité concernant la propriété littéraire et artistique conclu à Montevideo le 11 janvier 1889 entre divers Etats de l'Amérique du Sud*). || Cette adhésion ne produira ses effets qu'à l'égard de la République Argentine et de la République du Paraguay, dont les Gouvernements l'ont acceptée par des décrets datés

*) Le traité dont il s'agit n'a pas été mis en vigueur entre tous les Etats qui l'ont signé: il est appliqué seulement entre la République Argentine, le Paraguay, le Pérou et la République Orientale de l'Uruguay: les autres Etats signataires n'ont pas ratifié l'acte du 11 janvier 1889.

respectivement du 1er et du 22 juin 1903. || Le texte du traité se trouve reproduit ci-après en traduction.

Traité Concernant la propriété littéraire et artïstique.

S. E. le Président de la République Argentine; S. E. le Président de la République de Bolivie; S. M. l'Empereur du Brésil; S. E. le Président de la République du Chili; S. E. le Président de la République du Paraguay; S. E. le Président de la République du Pérou et S. E. le Président de la République Orientale de l'Uruguay sont convenus de conclure un traité concernant la propriété littéraire et artistique, par l'entremise de Leurs plénipotentiaires, réunis en Congrès dans la ville de Montevideo sur l'initiative des Gouvernements des Républiques Argentine et Orientale de l'Uruguay, et se sont fait représenter:

S. E. le Président de la République Argentine,

Par M. le Docteur Don Roque Saenz Peña, Envoyé Extraordinaire et Ministre Plénipotentiaire dans la République Orientale de l'Uruguay, et par M. le Docteur Don Manuel Quintana, Académicien de la Faculté de Droit et des Sciences sociales de l'Université de Buenos-Ayres;

S. E. le Président de la République de Bolivie,

Par M. le Docteur Don Santiago Vaca-Guzman, Envoyé Extraordinaire et Ministre Plénipotentiaire dans la République Argentine;

S. M. l'Empereur du Brésil,

Par M. le Docteur Domingos de Andrade Figueira, Conseiller d'Etat et Député à l'Assemblée générale législative;

S. E. le Président de la République du Chili,

Par M. Guillermo Matta, Envoyé Extraordinaire et Ministre Plénipotentiaire dans les Républiques Argentine et Orientale de l'Uruguay, et par M. Belisario Prats, Ministre de la Cour suprême de Justice;

S. E. le Président de la République du Paraguay,

Par M. le Docteur Don Benjamin Aceval, et par M. le Docteur Don José Z. Caminos;

S. E. le Président de la République du Pérou,

Par M. le Docteur Don Cesareo Chacaltana, Envoyé Extraordinaire et Ministre Plénipotentiaire dans les Républiques Argentine et Orientale de l'Uruguay, et par M. le Docteur Don Manuel Maria Galvez, Procureur de la Cour suprême de Justice;

S. E. le Président de la République Orientale de l'Uruguay,

Par M. le Docteur Don Ildefonso Garcia Lagos, Ministre, Secrétaire d'Etat au Département des Relations extérieures, et par M. le Docteur Don Gonzalo Ramirez, Envoyé Extraordinaire et Ministre Plénipotentiaire dans la République Argentine;

Lesquels, après avoir produit leurs pleins pouvoirs, trouvés en due forme, et aprés les conférences et les discussions de circonstance, sont convenus des stipulations suivantes:

Art. 1er. Les Etats signataires s'engagent à reconnaître et à protéger les droits de propriété littéraire et artistique, conformément aux stipulations du présent Traité.

Art. 2. L'auteur de toute œuvre littéraire ou artistique et ses successeurs jouiront, dans les Etats signataires, des droits que leur accorde la loi de l'Etat où aura lieu la première publication ou production de cette œuvre.

Art. 3. Le droit de propriété d'une œuvre littéraire ou artistique comprend pour l'auteur la faculté d'en disposer, de la publier, de l'aliéner, de la traduire ou d'en autoriser la traduction, et de la reproduire sous n'importe quelle forme.

Art. 4. Aucun Etat ne sera obligé à reconnaître le droit de propriété littéraire ou artistique pour une durée plus longue que celle fixée pour les auteurs qui y obtiennent ce droit.

Cette durée pourra être limitée à celle accordée dans le pays d'origine, si elle était moindre.

Art. 5. L'expression „œuvres littéraires ou artistiques" comprend les livres, les brochures et tous autres écrits; les œuvres dramatiques ou dramatico-musicales, les œuvres chorégraphiques, les compositions musicales avec ou sans paroles; les dessins, les peintures, les sculptures, les gravures; les œuvres photographiques, les lithographies, les cartes géographiques, les plans, croquis et travaux plastiques, relatifs à la géographie, à la topographie, à l'architecture ou aux sciences en général, et enfin toute production du domaine littéraire ou artistique qui prourrait être publiée par n'importe quel mode d'impression ou de reproduction.

Art. 6. Les traducteurs des ouvrages sur lesquels le droit de propriété garanti n'existera pas, ou sera éteint, jouiront, à l'égard de leurs traductions, des droits déclarés dans l'article 3, mais ils ne pourrout s'opposer à la publication d'autres traductions du même ouvrage.

Art. 7. Les articles de journaux pourront être reproduits, pourvu que la publication d'où ils sont tirés soit citée.

Sont exceptés les articles traitant d'art et de science et dont la reproduction aura été défendue expressément par leurs auteurs.

Art. 8. Peuvent être publiés dans la presse périodique, sans nécessité d'aucune autorisation, les discours prononcés ou lus dans les assemblées délibérantes, devant les tribunaux de justice ou dans les réunions publiques.

Art. 9. Sont considérées comme reproductions illicites, les appropriations indirectes d'une œuvre littéraire ou artistique, désignées sous des noms divers tels que adaptations, arrangements, etc., lorsqu'elles ne sont que des reproductions de cette œuvre, sans présenter le caractère d'une œuvre originale.

Art. 10. Les droits d'auteur seront reconnus, sauf preuve du contraire, en faveur des personnes dont les noms ou pseudonymes seront indiqués sur l'œuvre littéraire ou artistique.

Si les auteurs veulent réserver le secret de leur nom, les éditeurs doivent faire connaître que c'est à eux qu'appartiennent les droits d'auteur.

Art. 11. Les responsabilités qu'encourront ceux qui usurperont le droit de propriété littéraire ou artistique seront établies devant les tribunaux et régies par les lois du pays où la fraude aura été commise.

Art. 12. La reconnaissance du droit de propriété des œuvres littéraires ou artistiques ne prive pas les Etats signataires de la faculté de prohiber, conformément à leurs lois, la reproduction, publication, circulation, représentation et exposition de celles des œuvres qui seraient considérées comme contraires à la morale ou aux bonnes mœurs.

Art. 13. Il n'est pas indispensable, pour la mise en vigueur de ce traité, que la ratification de la part des nations signataires en soit simultanée. Celle qui l'approuvera le notifiera aux Gouvernements des Républiques Argentine et Orientale de l'Uruguay, pour qu'ils le portent à la connaissance des autres nations contractantes.

Ce procédé tiendra lieu d'échange de ratifications.

Art. 14. L'échange effectué dans la forme indiquée à l'article précédent, le présent traité restera en vigueur pour un tems indéfini.

Art. 15. Si une des nations signataires croit utile de se délier du traité, ou d'y introduire des modifications, elle en avisera les autres, mais

elle ne sera déliée que deux ans après la dénonciation, terme dans lequel on tâchera d'arriver à un nouvel accord.

Art. 16. L'article 13 peut être étendu aux nations qui, n'ayant pas pris part au Congrès, désireraient adhérer au présent traité.

En foi de quoi les Plénipotentiaires des Etats mentionnés l'ont signé et scellé au nombre de sept exemplaires, à Montevideo, le onze du mois de janvier mil huit cent quatre-vingt-neuf.

Unterschriften.

Nr. 13212. PERU und BRASILIEN. — Handelsvertrag.

10. Oktober 1891.

Tratado de commercio e navegaçao.

As Republicas do Perú e dos Estados Unidos do Brazil, egualmente animadas do desejo de facilitar o commercio e navegaçao fluvial em suas regioes amazonicas e mutuas fronteiras, estreitando ao mesmo tempo seus vinculos de confraternizaçao resolveram ajustar em um Tratado especial os principios e bases desse commercio e navegaçao, e para esse fim nomearao seus plenipotenciarios, á saber: || S. E. o Sr. Coronel Remigio Morales Bermúdez, Presidente da Republica do Perú, ao Senhor Dr. Guilherme A. Seoane, Enviado Extraordinario e Ministro Plenipotenciario junto ao Governo do Brazil; || S. E. o Sr. Generalissimo Manuel Deodoro da Fonseca, Presidente da Republica dos Estados-Unidos do Brazil, ao Sr. Dr. Justo Leite Chermont, Ministro de Estado das Relaçoes Exteriores; || Os quaes, depois de exhibidos os seus plenos poderes, que acharao em boa e devida forma, convierao nas seguintes estipulaçoes;

I.

A navegaçao dos rios communs ao Perú e ao Brazil e a do Yavary é affluentes deste é livre para as embarcaçoes peruanas ou brazileiras, ficando sujeita aos regulamentos esta belecidos ou que se estabelecerem nos dous paizes.

II.

Esses regulamentos devem ser o mais favoraveis á navegaçao e commercio e guardar nas duas Republicas a possival uniformidade.

III.

Serao consideradas peruanas nos portos do Brazil é brazileiras nos portos do Perú as embarcaçoes que forem possuidas e tripoladas segundo as leis do respectivo paiz

IV.

As Republicas do Perú e dos Estados-Unidos do Brazil convem em declarar livres de todo e qualquer imposto as comunica çoes entre sí, nao só pelas terrestres que dem passagem de um á outro territorio, respeitados os regulamentos fiscaes e de policia que estabelecer cada Governo dentro de sua jurisdicçao.

V.

Quando, na falta de linha directa do Atlantico para o Perú ou do Perú para o Atlantico, se torne necessaria á baldeaçao em qualquer porto alfandegado brazileiro, de mercadorias navegadas com manifestos directos, nao se exigirá no dito porto de transito o desembarque ou abertura dos volumes, que, assim como na dita linha directa, ficam isentos de todo imposto.

VI.

Quando, na falta del baldeaçao, houver que deter se o transito das mercadorias em algum dos portos peruanos ou brazileiros da via fluvial, se depositarao em armazens especiaes maritimos ou terrestres. || Neste caso, a alfandega respectiva cobrará o imposto de armazenágem e capatazias como até agora, conforme a legeslaçao de cada paiz.

VII.

Para que continúe o transito das mercadorias depositadas o consignatario dellas apresentará uma relaçao especificada dos respectivos volumes, de accordo com o manifesto, por carregamentos integraes correspondentes a mesma pessôa, sem subdividil-os, salvo o caso de o solicitar o interessado, sendo isso necessario para sua bôa accommodaçao. || Esta relaçao encionarám os numeros, marcas e contramarcas, peso bruto, capacidade e o conteúdo de cada volume. Os volumes subdivididos terao as mesmas marcas, contramarcas e numeros do principal acrescentado-se a elles uma letra do alphabeto por sua orden.

VIII.

Preenchidas as formalidades da clausula anterior e assignado pelo consignatario ou expedidor das mercadorias em transito o termo de responsabilidade para garantia dos respectivos direitos fiscaes no caso de nao chegarem ao seu destino, dar-se-lhes-ha saida. || A baixa da responsabilidade referida se realizará em vista de certificado da alfandega á que é destinada a mercadoria, o qual deverá ser authenticado pela autoridade consular. || Para este fim se consignará no termo de responsabili-

dade o prazo equitativo dentro do qual será exhibida a prova da chegada ao seu destino das mercadorias despachadas em transito.

IX.

Ficam dispensados dos termos de responsabilidade os consignatarios das mercadorias em transito que as fizerem transportar directamente para os portos do Perú em embrcaçao que nao toque em qualquer outro porto intermediario, excepto os de Manaos e Tabatinga. || Ficam egualmente dispensados do termo de responsabilidade os consignatarios que consiguierem o transporte das mercadorias em embarcaçoes que embera toquem em outros portos intermediarios as conduzam em repartimentos especiaes lacrados pela autoridade aduaneira. Estes repartimentos só poderao ser abertos na alfandega recebodra em presença da autoridade consular brazileira. || Em ambos estes casos, fica dispensada a apresentaçao da relaçao a que se refere a clausula anterior, bastando para o despacho a indicaçao do numero dos volumes com as suas marcas e contramarcas.

X.

As embarcaçaos occupadas no commercio de transito conduzirao empregados fiscaes de ambas as Republicas, conforme as exigencias do serviço aduaneiro, afim de verificarem o destino das mercadorias.

XI.

Na exportaçao directa que do Perú se fizer para o Atlantico, com baldeaçao ou deposito nos portos brazileiros de transito, se observará o estipulado nas clausulas anteriores referentes a importaçao, quanto aos documentos probatorios de sua procedencia quando fôr preciso depositar a mercadoria nos entrepostos ou depositos terrestres ou maritimos, omittindo cada Governo as diligencias que lhe competirem e fôrem consideradas desnecessarias.

XII.

Para que continue o transito dos artigos de exportaçao acima especificados o consignatario promoverá, em vista das respectivas guias aduaneiras e do manifesto, o despacho de saida.

XIII.

Salvo o uso de papel sellado ou do sello de estampilhas, nao se cobrará direito algum pela documentaçao relativa ao despacho de transito da mercadoria armazenada.

XIV.

Os productos peruanos que se importarem no Brazil e os brazileiros que se importaren no Perú pelo Amazonas e seus affluentes communs, ficam isentos de todos e quaesquer direitos.

XV.

Nao ha nacionalisaçao de mercadorias e, por conseguinte, as mercadorias estrangeiras que do Perú fôrem exportadas para o Brazil, ou do Brazil para o Perú, pagarao os direitos estabelecidos nos respectivas Alfandegas recebedoras.

XVI.

As Alfandegas remetterao uma relaçao das mercadorias em transito, além do manifesto respectivo que é do estylo enviar, sempre que fôr exigida pelos seus inspectores.

XVII.

O commercio de importaçao e exportaçao do rio Yavary, margem peruana ou brazileira, fica sujeito a direitos aduaneiros inteiramente eguaes, sob as bases e formalidades adiante especificadas.

XVIII.

Em caso de algum contracto com embarcaçoes ou companhias de navegaçao sobre diminuição de fretes para o commercio do rio Yavary essa diminuição será commum a ambos os paizes afim de que haja no transporte a mesma egualdade que na percepçao dos direitos.

XIX.

As mercadorias ou productos de transito destinados ou procedentes do rio Yavary trarao manifestos distinctos da demais carga.

XX.

A gomma elastica procedente da região do rio Yavary, pagará no acto de sua saida o imposto de dez por cento (10%) calculado sobre o seu valor official e sete por cento (7%) os demais productos que da dita regiao forêm exportados.

XXI.

Este valor official será calculado sobre os das ultimas cotaçoes dos ditos generos ou productos na praça de Manáos, que e a mais importante e a mais proxima do rio Yavary.

XXII.

As mercadorias de importaçao (não peruanas ou brazileiras) com destino á região do Yavary e para qualquer de suas margens, ficam sujeitas aos direitos que actualmente pagoo pela legislação do Brasil emquanto o Congresso Brazileiro nao autorisar constitucionalmente o Governo a fazer uma reducção especial para a Alfandega mixta, proposta por uma commissao mixta, que attenderá a grande distancia e ás condiçoes do commercio daquella regiao.

XXIII.

As differenças de qualidade ou quantidade verificadas por occasiao dos despachos e conferencia aduaneira serao sujeitas ao pagamento de direitos dobrados afim de evitar ou reprimir o abuso.

XXIV.

Para a fiel execuçao do que fica estipulado com referencia ao commercio de *importaçao* e *exportaçao* do rio Yavary, a sua fiscalisaçao e a arrecadaçao dos direitos aduaneiros, as Altas Partes contractantes resolvem estabelecer em Tabatinga una Alfandega mixta.

XXV.

Os empregados desta Alfandega serao nomeados pelo Governo do Brazil, constituindo o Governo do Perú uma Agencia fiscal, on um Interventor Consular que acompanhará o serviço dos *manifestos*, *facturas*, *conhecimentos e guias* de entrada de mercadorias e saidas de productos, bem assim aos exames e diligencias nos armazens terrestres ou maritimos da Alfandega mixta.

XXVI.

Uma commissao mixta confeccionará um regulamento para ser observado na Alfandega mixta, depois de approvado pelos dous governos.

XXVII.

Os actos da Agencia fiscal ou do Interventor Consular prevalecerao para todos os effeitos aduaneiros no commercio de *importaçao* e *exportaçao* perante as Alfandegas brazileiras.

XXVIII.

As sommas provenientes dos direitos aduaneiros de importaçao ou exportaçao destinada ou procedente do Perù, arrecadadas na Alfandega

mixta, serao entregues mensalmente á Alfandega de Iquitos, na especie recebida.

XXIX.

As embarcaçoes que tiverem recebido *passe* em algum dos portos aduaneiros do Brazil con destino directo a *Iquitos* ou a qualquer outro porto do rio *Maranhao* ou *Amazonas Peruano* bem como as que dalli procederem destinadas a portos brazileiros ou estrangeiros, ficam isentas de dar *entrada* na Alfandega mixta de Tabatinga; só haverá visita fiscal e de policia nas ditas embarcaçoes se tiverem de deixar ou receber passageiros.

XXX.

E' indispensavel or passe, concedido gratuitamente, da Alfandega mixta para que entrem as embarcaçoes no rio Yavary; e uma vez despachados nessa Alfandega os productos dalli procedentes, seguirao as cargas a seu destino livres de quaesquer exames, onus ou impostos.

XXXI.

Para melhor exercer-se a fiscalisaçao aduaneira e facilitar as relaçoes commerciaes entre as Republicas do Perú e Brazil na regiao do Yavary, o Governo do Brazil compromette-se a prolongar sua linha telegraphica até Tabatinga, e o Perú a continual-a da dita fronteira até Iquitos onde funcciona actualmente a principal Alfandega peruana limítrophe.

XXXII.

Quando por haver-se infringido os regulamentos de policia concernentes ao livre transito fluvial se tiverem embargado mercadorias ou os navios ou embarcaçoes menores que as conduzam, as duas Altas Partes Contractantes estipulao que se levantará tal embargo mediante a prestaçao de uma fiança ou caução sufficiente para assegurar o valor dos objectos detidos. || Do mesmo modo, quando a infracçao nao incorrer senao em pena de multa, permittir-se ha ao infractor a continuaçao de sua viagem, assegurando a importancia da dita multa e seu effectivo pagamento dentro de um prazo conveniente.

XXXIII.

Si algum navio das Altas Partes Contractantes naufragar, soffrer avaria, ou fôr abandonado nas margens dos rios da outra, dar-se-ha ao dito navio e a sua tripolaçao a assistencia e protecçao possiveis e o navio, qualquer parte delle, todo o seu apparelho e pertences e todos os effeitos e mercadorias que se salvarem ou o seu producto, si se vende-

rem, serao fielmente entregues a seus donos ou agentes devidamente autorizados. || Na falta destes ultimos entregar-se hao ao Consul ou Vice-Consul respectivo, pagando unicamente as despezas occasionadas pela conservaçao da propriedade ou outras que se paguem em iguaes casos por navios nacionaes naufragados; e permittir-se-ha no dito caso de naufragio ou avaria descarregar, si for necessario, as mercadorias ou effeitos que se achem a bordo, sem exigir por isto nenhum direito, salvo si se destinarem a venda ou consumo no paiz em que forem desembarcadas.

XXXIV.

Cada uma das duas Republicas substituirá em seus portos da via fluvial os antigos direitos denominados de pharol e balizas em beneficio da navegaçao pelo direito unico de tonelagem, recommendado pelo Congresso de Washington, o qual será cobrado sobre a tonelagem bruta, isto é, sobre a capacidade total do navio; o dito imposto só gravará ás embarcaçoes que directamente se dirigirem aos seus portes ou que nelles entrarem por escala (salvo os casos de força maior) e quando carregarem ou descarregarem.

XXXV.

O direito de tonelagem será no maximo: || de 20 soles no Perú e de 40 000 réis no Brazil para os navios até de 200 toneladas; || de 30 soles no Perú e de 60 000 réis no Brazil para os navios até 400 toneladas. || de 40 soles no Perú e de 80 000 réis no Brazil para os navios até de 700 toneladas; || de 50 soles no Perú e de 100 000 réis no Brazil para os navios de mais de 700 toneladas.

XXXVI.

Sao insentos do pagamento de direito de tonelagem: || 1° Os transportes ou navios de guerra; || 2° Os que medirem menos de vinte e cinco toneladas; || 3° Os navios que por cualquer causa imprevista ou irresistivel se virem compellidos a arribar ao porto desviandose do seu rumo; || 4° Os hiates e demais embarcaçoes de recreio.

XXXVII.

A' excepçao dos direitos de capatazia e armazenagem permittidos pela cláusula sexta a respeito das mercadorias depositadas e da tonelagem com que grava os navios a clausula 34*a*, o de estampilhas ou papel sellado a que se refere a clausula 13*a*, o transito fluvial nao poderá ser gravado directa ou indírectamente com imposto algum, seja qual fôr a sua denominaçao e objecto.

XXXVIII.

As Republicas do Perú e dos Estados-Unidos do Brazil obrigao-se respectivamente a nao permittir que os indigenas sejao arrebatados e conduzidos do territorio de uma para o de outra Naçao; e os que fôrem levados deste modo violento serao restituidos ás respectivas autoridades da fronteira logo que fôrem reclamados.

XXXIX.

Fica sem effeito a Convençao fluvial de 22 de outubro de 1858 a que substitúe este Tratado.

XV.

O presente tratado durará cinco annos e entrará em vigor aos noventa dias da troca das ratificaçoes. Concluidos os cinco annos continuará até que uma das Altas Partes Contractantes notifique á outra seu desejo de pór-lhe termo; e cessará em todos os seus effeitos doze mezes depois da data desta notificaçao.

XLI.

O Governo do Brasil promoverá a approvaçao de todas as clausulas deste tratado que pela Constituiçao Federal sao da exclusiva competencia do Congresso do Estado do Amazonas. || Só depois de approvadas aquellas clausulas por esse Congresso será o presente tratado ratificado conforme a legislaçao de cada paiz, sendo as ratificaçoes trocadas em Lima, Rio Janeiro ou outro logar que opportunamente se designe. || Em fé do que os Plenipotenciarios das Republicas do Perú e do Brazil o firmárao e sellárao. || Feito no Rio de Janeiro aos dez dias do mez de outubro de mil oitocentos e noventa e um.

Guillermo A. Seoane.
Justo Leite Chermont.

Druck von Bär & Hermann in Leipzig.

UNIVERSITY OF FLORIDA
3 1262 08553 3445

327.08
S775
v.69